1983

Session Law 83-082

Florida Senate & House of Representatives

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H. HRS 1983 Analytical files: Protective Services 19/1485
H. HRS 1983 Original staff analysis 19/1874
H. Chin 1971 1983 Meeting files 19/134/3
(18/190) 19/134/61
The legislative intent statement in FS §415.101(2) was created by this session law. It was initially codified in the law as FS §827.09(1), but the Division of Statutory Revision editors transferred all of old FS §827.09 to current 415.101 in the 1983 edition of the Florida Statutes. The law states that this is a “substantial rewording...” of FS §827.09, but the 1981 statutes had no legislative intent provision.

The original version of the enacting legislation, Senate Bill (SB) 124 did not contain the legislative intent provision. This was added by Senate Floor Amendment 1 by the Senate Committee on Judiciary-Civil on May 25, 1983. This was a “Strike everything after the enacting and insert...” amendment that appears to replace the old text with the text of identical bill, Committee Substitute for Senate Bill (CS/SB) 998. Similar House Bill (HB) 644 also contained the legislative intent provision.

01. Joint Legislative Management Committee. Division of Legislative Information. History of Legislation, 1983 Regular Session SB 124 [passed] (p 44), SB 998 [identical] (p. 284); HB 644 [similar] (p. 205); and “Citator” for FS §827.09 (p 88).

02. SB 124 (1983). (Note: this version only addressed FS §410.11)


04. Journal of the Senate, May 25, 1983, pp. 348-351, re: amendment to SB 124. (Note: this is a “strike everything after the enacting clause...” amendment. The source of this amendment appears to be identical bill CS/SB 998).

05. SB 998 (1983) (see section 1 and summary)


07. CS/SB 998 (1983) (see section 1)


10. HB 644 (1983). (see section 1 and summary)

11. CS/HB 644 (1983) (see section 1 and summary)


CHAPTER 415
PROTECTION FROM ABUSE, NEGLECT, AND EXPLOITATION

415.101 Protective and supportive services for aged persons and disabled persons who are abused, neglected, or exploited; legislative intent.

415.102 Definitions of terms used in ss. 415.101-415.112.

415.103 Mandatory reports of abuse, neglect, or exploitation of aged or disabled persons; mandatory reports of death, abuse registry.

415.104 Protective investigations of cases of abuse, neglect, or exploitation of aged or disabled persons; investigations of institutional abuse, neglect, or exploitation, transmittal of records to state attorney.

415.105 Protective services for aged or disabled persons.

415.106 Cooperation by law enforcement and other agencies with respect to cases of abuse, neglect, or exploitation of aged or disabled persons; use of county funds; purchase of services.

415.107 Confidentiality of reports and records in cases of abuse, neglect, or exploitation of aged or disabled persons.

415.108 Immunity from liability in cases of abuse, neglect, or exploitation of aged or disabled persons.

415.109 Abrogation of privileged communications in cases involving abuse, neglect, or exploitation of aged or disabled persons.

415.110 Penalties for failing to report or preventing another person from reporting, or for disclosing confidential information relating to, a case of abuse, neglect, or exploitation of an aged or disabled person.

415.111 Rules for implementation of ss. 415.101-415.112.

415.106-415.112. As used in ss. 415.101-415.112, the term:

1. "Abuse" means treatment under which an aged or disabled person is deprived, or allowed to be deprived, of necessary treatment, habilitation, care, sustenance, clothing, shelter, supervision, or medical services essential to his well-being; is permitted to live in an environment in which such deprivation or environment causes, or is likely to cause, impairment of physical or emotional health; or is subject to physical or psychological injury.

2. "Abused person" means any aged or disabled person who has been subjected to abuse or whose condition suggests that he has been abused.

415.511 Immunity from liability in cases of child abuse or neglect.

415.512 Abrogation of privileged communications in cases involving child abuse or neglect.

415.513 Penalties for failing to report or preventing another person from reporting, or disclosing confidential information relating to, a case of child abuse or neglect.

415.514 Rules for implementation of ss. 415.502-415.514.

415.601 Spouse abuse treatment and rehabilitation; legislative intent.

415.602 Definitions of terms used in ss. 415.601-415.608.

415.603 Duties and functions of the department with respect to spouse abuse.

415.605 Spouse abuse centers.

415.606 Referral to spouse abuse centers.

415.608 Confidentiality of information received by department or spouse abuse centers.
CHAPTER 83-81

LAWS OF FLORIDA

CHAPTER 83-81

(m) The department may designate by rule other portions of state waters where manatees are frequently sighted and it can be assumed that manatees inhabit such waters periodically or continuously. Upon designation of such waters, the department shall adopt rules to regulate motorboat speed and operation necessary to protect manatees from harmful collisions with motorboats.

Section 2 This act shall take effect upon becoming a law.

Approved by the Governor June 8, 1983
Filed in Office Secretary of State June 9, 1983

CHAPTER 83-82

Senate Bill No 124

An act relating to the Department of Health and Rehabilitative Services; amending s. 827.09, Florida Statutes, relating to protection of abused, aged, and disabled persons; requiring certain reports and authorizing the department to take certain action with respect thereto, providing for certain confidentiality; providing penalties, amending s. 410.035, Florida Statutes, relating to subsidy payments, providing for development of a schedule of subsidy payments by October 1, 1983, deleting minimum and maximum limits thereon, repealing ss. 410.10-410.11, Florida Statutes, relating to the "Adult Protective Services Act;" providing an effective date

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

Section 1. Section 827.09, Florida Statutes, is amended to read:

(Substantial rewording of section See 827.09 Abuse, neglect, or exploitation of aged or disabled persons.--

(1) LEGISLATIVE INTENT --The Legislature recognizes that there are many persons in this state who, because of age or disability, are in need of protective services. Such services should allow the individual the same rights as other citizens, and at the same time protect the individual from abuse, neglect, and exploitation. It is the intent of the Legislature to provide for the detection and correction of abuse, neglect, and exploitation and to establish a program of protective and supportive services for all persons in need of them. It is intended that the mandatory reporting of such cases will cause the protective services of the state to be brought to bear in an effort to prevent further abuse, neglect, and exploitation. In doing so, the Legislature intends to place the least possible restrictions on personal liberty and the exercise of constitutional rights, consistent with due process and protection from abuse, neglect, and exploitation.

(2) DEFINITIONS --As used in this section

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(a) "Abuse" means treatment under which an aged or disabled person is deprived, or allowed to be deprived, of necessary treatment, habilitation, care, sustenance, clothing, shelter, supervision, or medical services essential to his well-being, or is permitted to live in an environment, when such deprivation or environment causes, or is likely to cause impairment of physical or emotional health; or is subject to physical or psychological injury.

(b) "Abused person" means any aged or disabled person who has been subjected to abuse or whose condition suggests that he has been abused.

(c) "Aged person" means a person suffering from the infirmities of aging as manifested by organic brain damage, advanced age, or other physical, mental, or emotional dysfunction to the extent that the person is impaired in his ability to adequately provide for his own care or protection.

(d) "Department" means the Department of Health and Rehabilitative Services.

(e) "Disabled person" means any person who suffers from a condition of mental retardation, epilepsy, cerebral palsy, mental illness, or other disability which causes the person to be substantially unable to protect himself from the abusive conduct of others.

(f) "Exploitation" means an unjust or improper use of another person for one's own profit or advantage.

(g) "Facility" means any public or private hospital, training center, clinic, school, or other program or service for aged or disabled persons.

(h) "Indicated report" means a report made pursuant to this section when a protective investigation determines that some indication of abuse, neglect, or exploitation exists.

(i) "Neglect" means to omit, forbear, or fail to exercise a degree of care and caution that a prudent person would deem essential to insure the well-being of an aged or disabled person and, by such omission, forbearance, or failure, significantly impair or jeopardize the physical or emotional health of the aged or disabled person.

(j) "Protective services" means those services, the objective of which is to protect an aged or disabled person. Such protective services shall include, but shall not be limited to, evaluation of the need for services, arrangements for appropriate living quarters, obtaining financial benefits to which the person is entitled, or securing medical and legal services. In those situations where exploitation, prevention of injury, and protection of the person and his property are at issue, protective services shall include seeking the appointment of a guardian for the person or seeking protective placement.

(k) "Unfounded report" means a report made pursuant to this section when a protective investigation determines that no indication of abuse, neglect, or exploitation exists.

(3) REPORTS OF ABUSE, NEGLECT, OR EXPLOITATION OF AGED OR DISABLED PERSONS REQUIRED --
(a) Any person, including, but not limited to, any:

1. Physician, osteopath, medical examiner, chiropractor, nurse, or hospital personnel engaged in the admission, examination, care, or treatment of persons.

2. Health or mental health professional other than one listed in subparagraph 1.

3. Practitioner who relies solely on spiritual means for healing

4. Nursing home worker, adult congregate living facility worker, adult day care center worker, social worker, or other professional adult care, foster care, residential or institutional worker.

5. Law enforcement officer

who knows, or has reasonable cause to suspect, that an aged or disabled person is an abused, neglected, or exploited person shall immediately report such knowledge or suspicion to the department's abuse registry on the single statewide tollfree telephone number or directly to the local office of the department responsible for investigation of reports made pursuant to this section.

(b) Each report made by a person in an occupation designated in paragraph (a) shall be confirmed in writing by the individual making the report to the local office of the department within 48 hours of the initial report.

(c) Reports involving known or suspected institutional abuse, neglect, or exploitation shall be made and received in the same manner as all other reports made pursuant to this section.

(d) The statewide tollfree telephone number for the central abuse registry shall be posted in all facilities operated by or under contract with or licensed by the department which provide services to aged or disabled persons. Such posting shall be clearly visible and in a prominent place within the facility and shall be accompanied by the words, "To Report the Abuse, Neglect, or Exploitation of an Elderly or Disabled Person, Please call the Tollfree Number."

(4) MANDATORY REPORTING OF DEATH AND POSTMORTEM INVESTIGATION BY MEDICAL EXAMINER -- Any person required to report or investigate cases of suspected abuse, neglect, or exploitation who has reasonable cause to suspect that an aged or disabled person died as a result of abuse, neglect, or exploitation, shall report his suspicion to the appropriate medical examiner. The medical examiner shall accept the report for investigation pursuant to s. 406.11 and shall report his findings, in writing, to the local law enforcement agency, the appropriate state attorney, and the department. Autopsy reports maintained by the medical examiner shall not be subject to the confidentiality requirements provided for in this section.

(5) REPORTS OF INSTITUTIONAL ABUSE, NEGLECT, OR EXPLOITATION.-- The department shall conduct a protective investigation of each report of institutional abuse, neglect, or exploitation. Upon receipt of a report which alleges that an employee or agent of the department acting in an official capacity, has committed an act of abuse, neglect, or exploitation, the department shall immediately initiate a protective investigation and shall notify the state
attorney in whose circuit the alleged abuse, neglect, or exploitation occurred.

(6) ABUSE REGISTRY --

(a) The department shall establish and maintain a central abuse registry which shall receive reports made pursuant to this section in writing or through a single statewide tollfree telephone number which any person may use to report known or suspected abuse, neglect, or exploitation at any hour of the day or night, any day of the week. The abuse registry shall be operated in such a manner as to enable the department to:

1. Immediately identify and locate prior reports or cases of abuse, neglect, or exploitation.

2. Regularly evaluate the effectiveness of the department's program for abused, neglected, or exploited persons through the development and analysis of statistical and other information.

(b) Upon receiving an oral or written report of known or suspected abuse, neglect, or exploitation, the abuse registry shall immediately notify the local office of the department with respect to the report, any previous report concerning a subject of the present report, or any other pertinent information relative thereto.

(c) Upon completion of its investigation, the local office of the department shall classify reports either as indicated or unfounded. All identifying information in the abuse registry maintained in unfounded reports shall be expunged immediately. All identifying information in the abuse registry maintained in indicated reports shall be expunged from the registry 7 years from the date of the last indicated report concerning the same victim or the same perpetrator. All information, other than identifying information, maintained in indicated or unfounded reports at the time of expunction shall be disposed of in a manner deemed appropriate by the department and pursuant to s. 119.041 and s. 267.051(6). Nothing in this section is intended to require the expunction or destruction of case records or information required by the Federal Government to be retained for future audit.

(7) PROTECTIVE INVESTIGATIONS --

(a) The department shall, upon receipt of a report of abuse, neglect, or exploitation of an aged or disabled person, cause an immediate protective investigation to be made and shall in turn, upon determining probable cause, notify the state attorney. The department shall, within 24 hours of receipt of the report notify the appropriate human rights advocacy committee, as established pursuant to s. 20.19(7), that an alleged abuse has occurred. Such notice may be accomplished verbally or in writing and shall include the name of the person alleged to have been abused and the nature of the report. The department shall provide protective services under any of the following conditions:

1. The person demonstrates a need for, and requests, such services.

2. An interested person requests such services on behalf of a person in need of services.
3 The department determines a person is in need of such services.

4 A court orders such services.

(b) Voluntary services -- An individual shall receive protective services voluntarily unless ordered by the court, requested by a guardian, or provided in accordance with subsection (8).

(8) INVOLUNTARY PROVISION OF SERVICES.--

(a) Every reasonable effort shall be made to secure the consent and participation of the aged or disabled person in the assessment and resolution of his own need for protective services.

(b) Upon probable cause to believe that an aged or disabled person is being abused, neglected, or exploited, a representative of the department, accompanied by a law enforcement officer may enter a premises after obtaining a court order and announcing their authority and purpose.

(c) Forcible entry shall be attained only after a court order has been obtained, unless there is probable cause to believe that the delay incident of such an order would cause an aged or disabled person to incur a substantial risk of life-threatening physical harm.

(d) When, from the personal observation of a representative of the department and a law enforcement officer, it appears probable that an aged or disabled person is likely to incur a substantial risk of life-threatening physical harm or deterioration if not immediately removed from the premises, the department's representative may, when authorized by a court order, take into custody and transport, or make arrangements for the transportation and payment thereof, the individual to an appropriate medical or protective services facility.

(e) When action is taken under this section, a preliminary hearing shall be held within 48 hours of the signing of the court order, excluding Saturdays, Sundays, and legal holidays, to establish probable cause for grounds for protective placement.

(f) Upon a finding of probable cause, the court may order temporary placement for up to 4 days, pending the hearing for a need for continuing services.

(9) COOPERATION WITH LAW ENFORCEMENT AND OTHER AGENCIES --

(a) All state, county, and municipal law enforcement and public agencies have a duty to cooperate with the department and its employees, transmit reports of abuse, neglect, and exploitation to the department, and protect and enhance the welfare of aged or disabled persons who are potentially subject to abuse, neglect, or exploitation detected by a report made pursuant to this section.

(b) Any funds appropriated by counties for home health care or boarding home, foster home, or nursing home services may be matched by state and federal funds; such funds shall be utilized by the Department of Health and Rehabilitative Services for the benefit of aged or disabled persons in said counties.

(c) The Department of Health and Rehabilitative Services may purchase services from any public or private institution, or
institution or agency within the state which meets the standards and rules prescribed by the department for the proper care and supervision of abused, neglected, or exploited persons

(d) Every facility serving aged or disabled persons shall inform residents of their rights to report abusive, neglectful, or exploitative practices and shall establish appropriate policies and procedures to facilitate such reporting.

(10) CONFIDENTIALITY OF REPORTS AND RECORDS

(a) In order to protect the rights of the individual or other persons responsible for the welfare of the aged or disabled person, all records concerning reports of abuse, neglect, or exploitation of the aged or disabled person, including reports made to the abuse registry and to local offices of the department and all records generated as a result of such reports, shall be confidential and exempt from the provisions of s 119.07(1), and shall not be disclosed except as specifically authorized by this section

(b) Access to such records, excluding the name of the person making the report, which shall be released only as provided in paragraph (d), shall be granted only to the following persons, officials, and agencies for the following purposes

1. Employees or agents of the department responsible for carrying out protective investigations, ongoing protective services, or licensure or approval of nursing homes, adult congregate living facilities, adult day care centers or other facilities, used for the placement of aged or disabled persons.

2. A law enforcement agency investigating a report of known or suspected abuse, neglect, or exploitation.

3. The state attorney of the judicial circuit in which the aged or disabled individual resides or in which the alleged abuse, neglect, or exploitation occurred.

4. Any aged or disabled person or perpetrator who is the subject of a report or the subject's guardian, custodian, guardian ad litem, or counsel

5. A court, by subpoena, upon its finding that access to such records may be necessary for the determination of an issue before the court, however, such access shall be limited to in-camera inspection, unless the court determines that public disclosure of the information contained therein is necessary for the resolution of an issue then pending before it.

6. A grand jury, by subpoena, upon its determination that access to such records is necessary in the conduct of its official business

7. Any appropriate official of the department responsible for

   a. Administration or supervision of the department's program for the prevention, investigation, or treatment of abuse, neglect, or exploitation when carrying out his official function, or

   b. Taking appropriate administrative action concerning an employee of the department alleged to have perpetrated institutional abuse, neglect, or exploitation
Any person engaged in bona fide research or audit purposes. However, no information identifying the subjects of the report shall be made available to the researcher unless such information is absolutely essential to the research purpose, suitable provision is made to maintain the confidentiality of the data, and the department has given written approval.

(c) The department may release to professional persons such information as is necessary for the diagnosis and treatment of the victim or the person perpetrating the abuse.

(d) The name of any person reporting abuse, neglect, or exploitation shall in no case be released to any person other than employees of the department responsible for protective services, the abuse registry, or the appropriate state attorney without the written consent of the person reporting abuse, neglect, or exploitation when deemed necessary by the state attorney or the department to protect an aged or disabled person who is the subject of a report, provided that the fact that such person made the report is not disclosed. The department shall, upon receipt of an application of a person applying for approval or licensure of a facility to care for the aged or disabled persons, whether such care is for less than or more than 24 hours, search its abuse registry for the existence of an indicated report and the results of the adult protective assessment conducted pursuant thereto.

(11) TRANSMITTAL OF RECORDS --With respect to any case of reported abuse of an aged or disabled person, the department, when appropriate, shall transmit all reports received by it, which shall contain the results of the investigation, to the state attorney of the county where the incident occurred.

(12) IMMUNITY --Anyone participating in the making of a report pursuant to this section or participating in a judicial proceeding resulting therefrom shall be presumed prima facie to be acting in good faith and in so doing shall be immune from any liability, civil or criminal, that otherwise might be incurred or imposed. Further, no resident or employee of a facility serving aged or disabled persons shall be subjected to reprisal or discharge because of his actions in reporting abuse pursuant to the requirements of this section.

(13) ABROGATION OF PRIVILEGED COMMUNICATIONS --The privileged quality of communication between husband and wife and between any professional person and his patient or client, and any other privileged communication except that between attorney and client, as such communication relates to both the competency of the witness and to the exclusion of confidential communications, shall not apply to any situation involving known or suspected abuse, neglect, or exploitation and shall not constitute grounds for failure to report as required by this section, failure to cooperate with the department in its activities pursuant to this section, or failure to give evidence in any judicial proceeding relating to abuse, neglect, or exploitation of an aged or disabled person.

(14) RULES TO BE PROMULGATED --The Department of Health and Rehabilitative Services shall promulgate rules for the implementation of this section.

(15) PENALTIES --
(a) Any person required by this section to report a case of known or suspected abuse, neglect, or exploitation of an aged or disabled person who knowingly and willfully fails to do so, or who knowingly and willfully prevents another person from doing so, is guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(b) Any person who knowingly and willfully makes public or discloses any confidential information contained in the abuse registry or in the record of any case of abuse, neglect, or exploitation except as provided in this section, is guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082, s. 775.083, or 775.084.

(c) Any person who knowingly or willfully abuses, neglects or exploits an aged or disabled person and, in so doing, causes great bodily harm, permanent disfigurement, or permanent disability to such person is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(d) Any person who knowingly or willfully abuses, neglects, or exploits an aged or disabled person is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 2. Section 410.035, Florida Statutes, is amended to read:

410.035 Subsidy payments —

(1) The department shall develop by October 1, 1983, establish by rule by January 1, 1984, a schedule of subsidy payments to be made to persons providing home care for certain eligible elderly persons. Payments shall be no less than 10 percent of the prevailing rate paid by the department for the lowest level of nursing home care under s. 499.266, and no greater than 45 percent of said amount. Payments shall be based on the financial status of the person receiving care. Payments shall include, but not be limited to:

(a) A support and maintenance element, to include costs of housing, food, clothing, and incidentals.

(b) Payments for medical, pharmaceutical, and dental services essential to maintain the health of the elderly person and not covered by Medicare, Medicaid, or any form of insurance.

(c) When necessary, special supplements to provide for any service and specialized care required to maintain the health and well-being of the elderly person.

(2) The department shall develop a plan for the implementation of the schedule of a program of uniform subsidy payments to persons providing home care for the elderly.

Section 3. Sections 410.10-410.11, Florida Statutes, are hereby repealed.

Section 4 This act shall take effect July 1, 1983
Approved by the Governor June 8, 1983.

Filed in Office Secretary of State June 9, 1983.

CHAPTER 83-83

Senate Bill No. 395

An act relating to bail bond forfeiture and bail on appeal; amending s. 903.133, Florida Statutes, 1982 Supplement, expanding the prohibition of bail following adjudication of guilt of certain felonies; amending s. 903.27(1), Florida Statutes, 1982 Supplement, extending the time for payment of forfeiture prior to entry of judgment, clarifying that discharge of forfeiture shall be by order of court, providing an effective date

Be It Enacted by the Legislature of the State of Florida.

Section 1. Section 903.133, Florida Statutes, 1982 Supplement, is amended to read:

903.133 Bail on appeal; prohibited for certain first-degree felony convictions -- Notwithstanding the provisions of s. 903.132, no person adjudged guilty of a felony of the first degree for a violation of s. 782.04(2) or s. 782.04(3), s. 787.01, s. 794.011(4), s. 806.01, or s. 893.13 or s. 893.135 shall be admitted to bail pending appellate review either by post-trial motion or appeal.

Section 2. Subsection (1) of section 903.27, Florida Statutes, 1982 Supplement, is amended to read:

903.27 Forfeiture to judgment.--

(1) If the forfeiture is not paid or discharged by order of court of competent jurisdiction within 35 days and the bond is secured other than by money and bonds authorized in s. 903.16, the clerk of the circuit court for the county where the order was made shall enter a judgment against the surety for the amount of the penalty and issue execution. Within 10 days, the clerk shall furnish the surety company at its home office a copy of the judgment, which shall include the power-of-attorney number of the bond and the name of the executing agent. If the judgment is not paid within 60 days, the clerk shall furnish the Department of Insurance and the sheriff of the county in which the bond was executed, or the official responsible for operation of the county jail, if other than the sheriff, two copies of the judgment and a certificate stating that the judgment remains unsatisfied. When and if the judgment is properly paid, the clerk shall immediately notify the sheriff, or the official responsible for the operation of the county jail, if other than the sheriff, and the Department of Insurance, if the department had been previously notified of nonpayment, of such payment.

Section 3. This act shall take effect upon becoming a law.
Florida Legislature

History of Legislation
1983 Regular Session
1983 Special Sessions A, B, C
1982 Special Session H

prepared by:
Joint Legislative Management Committee
Legislative Information Division
Capitol Building, Room 826—488-4371
GUICY PLEAS: REPEALS PROVISION WHICH ALLOWS COUNTY COURT JUDGES TO ACCEPT VOLUNTARY PLEAS OF GUILTY AT ALL TIMES, SUNDAYS EXCEPTED. REPEALS 34.131. EFFECTIVE DATE: UPON BECOMING LAW.

03/24/83 SENATE REFERRED TO JUDICIARY-CRIMINAL, JUDICIARY-CIVIL
04/06/83 SENATE REFERRED TO JUDICIARY-CRIMINAL, JUDICIARY-CIVIL - SJ 00016
04/08/83 SENATE ON COMMITTEE AGENDA — JUDICIARY-CRIMINAL, 04/12/83, 2:00 PM, RM. C
04/12/83 SENATE COMM. REPOR: FAVORABLE BY JUDICIARY-CRIMINAL

04/15/83 SENATE NOW IN JUDICIARY-CIVIL - SJ 00108
04/18/83 SENATE EXTENSION OF TIME GRANTED COMMITTEE JUDICIARY-CIVIL; ON COMMITTEE AGENDA — JUDICIARY-CIVIL, 04/20/83, 2:00 PM, RM. B
04/20/83 SENATE COMM. REPOR: FAVORABLE, PLACED ON CALENDAR BY JUDICIARY-CIVIL - SJ 00134
05/25/83 SENATE PLACED ON SPECIAL ORDER CALENDAR
05/26/83 SENATE PLACED ON SPECIAL ORDER CALENDAR
05/30/83 SENATE PLACED ON SPECIAL ORDER CALENDAR
06/01/83 SENATE PLACED ON SPECIAL ORDER CALENDAR; PASSED; YEAS 38 NAYS 0 — SJ 00640
06/01/83 HOUSE IN MESSABE
06/02/83 HOUSE RECEIVED, REFERRED TO CRIMINAL JUSTICE, APPROPRIATIONS

S 0124 GENERAL BILL BY DUNN (IDENTICAL CS/S 0998, SIMILAR CS/H 0644, ENG/ 1188, COMPARE H 0790)
HEALTH & REHABILITATIVE SERVICES: AMENDS PROVISION RE PROTECTION OF ABUSED, AGED, & DISABLED PERSONS; REQUIRES CERTAIN REPORTS & AUTHORIZES THE DEPARTMENT TO TAKE CERTAIN ACTION WITH RESPECT THERETO; PROVIDES FOR CERTAIN CONFIDENTIALITY, ETC. AMENDS BS7.09, 410.035; REPEALS 410.10-11. EFFECTIVE DATE: 07/01/83.
01/25/83 SENATE PLACED ON SPECIAL ORDER CALENDAR
02/14/83 SENATE REFERRED TO JUDICIARY-CRIMINAL
04/05/83 SENATE PROPOSED AMENDS; PLACED ON CALENDAR
04/09/83 SENATE COMM. REPOR: FAVORABLE, PLACED ON CALENDAR
05/25/83 SENATE PLACED ON CONSENT CALENDAR; PASSED AS AMENDED; YEAS 36 NAYS 0 — SJ 00351
05/26/83 SENATE IMMEDIATELY CERTIFIED — SJ 00411
05/26/83 HOUSE IN MESSABE; RECEIVED, PLACED ON CALENDAR; READ SECOND TIME; READ THIRD TIME; PASSED; YEAS 112 NAYS 0 — SJ 00664
05/26/83 SENATE ORDERED ENROLLED — SJ 00452
06/02/83 SENATE SIGNED BY OFFICERS AND PRESENTED TO GOVERNOR — SJ 00663
06/08/83 SENATE APPROVED BY GOVERNOR CHAPTER NO. 83-82

S 0125 GENERAL BILL BY COMMERCE AND OTHERS (SIMILAR H 1058)
OPTOMETRIC SERVICE PLANS: (SUNSET) PROVIDES FOR COMPOSITION OF DIRECTORS OF OPTOMETRIC SERVICE PLAN CORPORATIONS; PROVIDES FOR EXPIRATION OF CERTIFICATE OF AUTHORITY; PROVIDES FOR WORKING CAPITAL AMT.: PROVIDES FOR SUSPENSION GROUNDS OR CERTIFICATE REVOCATION, ETc. AMENDS/REVIVES/ READOPTS CH. 337. EFFECTIVE DATE: 10/01/83.
01/26/83 SENATE PREFILED
02/14/83 SENATE REFERRED TO COMMERC
02/15/83 SENATE ON COMMITTEE AGENDA — COMMERC, 03/01/83, CANCELLED
04/05/83 SENATE INTRODUCED, REFERRED TO COMMERC - SJ NOUL; ON COMMITTEE AGENDA — COMMERC, 04/06/83, 9 AM, RM. A
04/06/83 SENATE COMM. REPOR: FAVORABLE WITH AMENDS, PLACED ON CALENDAR
04/12/83 SENATE PLACED ON SPECIAL ORDER CALENDAR; PASSED AS AMENDED; YEAS 36 NAYS 0 — SJ 00685 IMMEDIATELY CERTIFIED
CONTINUED ON NEXT PAGE
05/05/83 SENATE COMM. REPORT: FAVORABLE; PLACED ON CALENDAR BY TRANSPORTATION -SJ 00241
05/30/83 SENATE PLACED ON SPECIAL ORDER CALENDAR
05/31/83 SENATE PLACED ON SPECIAL ORDER CALENDAR
06/01/83 SENATE PLACED ON SPECIAL ORDER CALENDAR; RETAINED ON REGULAR CALENDAR
06/03/83 SENATE INDEFINITELY POSTPONED & W/D (SCR 1209); WAS ON CALENDAR

S 0997 GENERAL BILL/CS BY COMMERCE. JENNINGS (SIMILAR H 1212; COMPARE CS/H 0246, ENG/H 0520)
PUBLIC LODGING ESTABLISHMENTS: ALLOWS SUBSTITUTION IN SLEEPING ROOM OF MECHANICAL VENTILATION SYSTEM WITH SPECIFIED CAPABILITY FOR EXTERNAL OPENINGS; AMENDS PROVISION RE SANITARY REGULATIONS WITH RESPECT TO EMPLOYEES WHO PREPARE OR HANDLE FOOD, DRINK, DISHES, TOWELS, OR LINENS, ETC. AMENDS 5/9.221 EFFECTIVE DATE: UPON BECOMING LAW.
04/18/83 SENATE FILED
04/20/83 SENATE INTRODUCED, REFERRED TO ECONOMIC, COMMUNITY AND CONSUMER AFFAIRS; COMMERCE -SJ 00141
05/09/83 SENATE EXTENSION OF TIME GRANTED COMMITTEE ECONOMIC, COMMUNITY AND CONSUMER AFFAIRS ON COMMITTEE AGENDA - ECCA, 05/11/83, 5:00 PM, RM. 2C
05/11/83 SENATE COMM. REPORT: FAVORABLE BY ECONOMIC, COMMUNITY AND CONSUMER AFFAIRS -SJ 00255
05/13/83 SENATE NOW IN COMMERCE -SJ 00255
05/17/83 SENATE ON COMMITTEE AGENDA — COMMERCE, 05/19/83, 2:00 PM, RM. A
05/19/83 SENATE COMM. REPORT: CS PLACED ON CALENDAR BY COMMERCE -SJ 00334
05/24/83 SENATE CS READ FIRST TIME -SJ 00331
06/03/83 SENATE INDEF. POSTPONED & W/D (SCR 1209); WAS ON CAL; ISC BILL PASSED, SEE HB 520 (CH. 83-44)

S 0998 GENERAL BILL/CS BY HEALTH AND REHABILITATIVE SERVICES, DUNN (IDENTICAL ENG/S 0124, SIMILAR CS/H 0644; ENG/H 1886)
HEALTH & REHABILITATIVE SERVICES: AMENDS PROVISION RE PROTECTION OF ABUSED, AGED, & DISABLED PERSONS; REQUIRES CERTAIN REPORTS & AUTHORITIES TO THE DEPARTMENT TO TAKE CERTAIN ACTION WITH RESPECT THERETO; PROVIDES FOR CERTAIN CONFIDENTIALITY, ETC. AMENDS 827.09, 410.035; REPEALS 410.10-11. EFFECTIVE DATE: 07/01/83.
04/18/83 SENATE FILED
04/20/83 SENATE INTRODUCED; REFERRED TO HEALTH AND REHABILITATIVE SERVICES; APPROPRIATIONS -SJ 00142
05/02/83 SENATE EXTENSION OF TIME GRANTED COMMITTEE HEALTH AND REHABILITATIVE SERVICES
05/10/83 SENATE ON COMMITTEE AGENDA — HRS, NOT CONSIDERED
05/18/83 SENATE ON COMMITTEE AGENDA — HRS, NOT CONSIDERED
05/19/83 SENATE ON COMMITTEE AGENDA — HRS, 05/23/83, 2:00 PM, RM. A;
EXTENSION OF TIME GRANTED COMMITTEE HEALTH AND REHABILITATIVE SERVICES
05/23/83 SENATE COMM. REPORT: CS BY HEALTH AND REHABILITATIVE SERVICES -SJ 00335; CS READ FIRST TIME 05/25/83 -SJ 00336
05/25/83 SENATE NOW IN APPROPRIATIONS -SJ 00335
05/30/83 SENATE EXTENSION OF TIME GRANTED COMMITTEE APPROPRIATIONS
06/03/83 SENATE INDEF. POSTPONED & W/D (SCR 1209); WAS IN COMM; ISC BILL PASSED, SEE SB 124 (CH. 83-82)

S 0999 GENERAL BILL BY GERSTEN (COMPARE S 0963)
LOCAL COMPREHENSIVE PLANS: PROVIDES FOR UPDATING OF LOCAL COMPREHENSIVE PLANS THROUGH PERIODIC REPORTS, CHANGES PROVISIONS WITH RESPECT TO LOCAL ADOPTION UPON SUCH REPORTS. AMENDS 163.3191. EFFECTIVE DATE: 10/01/83.
04/18/83 SENATE FILED
04/20/83 SENATE INTRODUCED; REFERRED TO NATURAL RESOURCES AND CONSERVATION -SJ 00142
05/02/83 SENATE EXTENSION OF TIME GRANTED COMMITTEE NATURAL RESOURCES AND CONSERVATION; ON COMMITTEE AGENDA — NATURAL RES. & CONS., 05/05/83, 2:00 PM, RM. H
05/03/83 SENATE ON COMMITTEE AGENDA — SUBCOMMITTEE NATURAL RES., 05/09/83, 9 AM, RM. H
CONTINUED ON NEXT PAGE
H 0043 GENERAL BILL BY SPAET (SIMILAR S 0595)

COUNTY GOVERNMENT: AUTHORIZES A BOARD OF COUNTY COMMISSIONERS TO LEASE PROPERTY BELONGING TO THE COUNTY SEAPORT OPERATION OR FACILITY, UNDER CERTAIN CONDITIONS. AMENDS LC5.35. EFFECTIVE DATE: 06/08/83.

03/31/83 HOUSE PREFILED

04/04/83 HOUSE REFERRED TO COMMUNITY AFFAIRS

04/05/83 HOUSE INTRODUCED; REFERRED TO COMMUNITY AFFAIRS -HJ 00072

04/18/83 HOUSE ON COMMITTEE AGENDA -- SUBCOMM., COMM. AFFAIRS, 317 HOB, 8:30 AM, 04/20; ON COMMITTEE AGENDA, PENDING SUBCOMMITTEE ACTION -- COMMUNITY AFFAIRS; 317 HOB, 10:30 AM, 04/20

04/22/83 HOUSE COMM. REPORT: FAVORABLE; PLACED ON CALENDAR BY COMMUNITY AFFAIRS -HJ 00239

05/03/83 HOUSE PLACED ON SPECIAL ORDER CALENDAR

05/16/83 HOUSE READ SECOND TIME; AMENDMENTS ADOPTED -HJ 00411

05/17/83 HOUSE READ THIRD TIME; PASSED AS AMENDED; YEAS 110 NAYS 0 -HJ 00411. IMMEDIATELY CERTIFIED

05/19/83 SENATE RECEIVED; REFERRED TO ECONOMIC, COMMUNITY AND CONSUMER AFFAIRS -SJ 00306

05/25/83 SENATE WITHDRAWN FROM ECONOMIC, COMMUNITY AND CONSUMER AFFAIRS; SUBSTITUTED FOR SB 595; PASSED; YEAS 38 NAYS 0 -SJ 00403

05/26/83 HOUSE ORDERED ENROLLEU

06/01/83 HOUSE SIGNED BY OFFICERS AND PRESENTED TO GOVERNOR -HJ 00937

06/08/83 APPROVEU BY GOVERNOR CHAPTER NO. 83-100

H 0044 GENERAL BILL/CS BY HEALTH & REHABILITATIVE SERVICES, SPAET AND OTHERS (SIMILAR EN/G/H 118B, ENG/S 0124; CS/S 0998)

HEALTH & REHABILITATIVE SERVICES: AMENDS PROVISION RE PROTECTION OF ABUSED, AGED, & DISABLED PERSONS; REQUIRES CERTAIN REPORTS & AUTHORIZES THE DEPARTMENT TO TAKE CERTAIN ACTION WITH RESPECT THERETO; PROVIDES FOR CERTAIN CONFIDENTIALITY, PROVIDES PENALTIES, ETC. AMENDS SB27.09; REPEALS 410.10-.11. EFFECTIVE DATE: 10/01/83.

03/31/83 HOUSE PREFILED

04/04/83 HOUSE REFERRED TO HEALTH & REHABILITATIVE SERVICES, APPROPRIATIONS

04/05/83 HOUSE INTRODUCED; REFERRED TO HEALTH & REHABILITATIVE SERVICES, APPROPRIATIONS -HJ 00072

04/11/83 HOUSE SUBREFERRED TO SUBCOMMITTEE ON HEALTH, ECONOMIC AND SOCIAL SERVICES

04/14/83 HOUSE ON COMMITTEE AGENDA -- SUBCOMM., H.R.S., 415 HOB, 1:00 PM, 04/16/83; ON COMMITTEE AGENDA, PENDING SUBCOMMITTEE ACTION -- H.R.S., 317 C, 2:30 PM, 04/16/83

04/21/83 HOUSE ON COMMITTEE AGENDA -- H. R. S., 317 L, 3:15PM, 04/25/83

04/27/83 HOUSE COMM. REPORT: CS BY HEALTH & REHABILITATIVE SERVICES -HJ 00265; NOW IN APPROPRIATIONS

05/09/83 HOUSE SUBREFERRED TO SUBCOMMITTEE ON HRS/CRIMINAL JUSTICE (SUB. I)

06/03/83 HOUSE INDEF. POSTPONED & W/D (SCR 1209); WAS IN COMM; ISC BILL PASSED, SEE SB 124 (CH. 83-82)

H 0045 GENERAL BILL/CS BY COMMERCE; BANKHEAD (IDENTICAL CS/S 6723)

SECURITIES TRANSACTIONS: DEFINES "ACCRREDITED INVESTOR"; EXCLUDES CERTAIN PURCHASERS FROM CALCULATION OF NUMBER OF PURCHASERS NECESSARY TO REQUIRE REGISTRATION; REQUIRED REGISTRATION OF ASSOCIATED PERSONS & BRANCH CONTINUED UN NEXT PAGE
H 0788 GENERAL BILL/CS BY REGULATORY REFORM, CASAS, CORINTA, ROS, SPAET AND OTHERS (COMPARE S 1007)

PROFESSIONS AND OCCUPATIONS: REQUIRES PROFESSIONAL REGULATION DEPARTMENT TO MAKE CERTAIN STUDIES RE FOREIGN-SPEAKING RESIDENTS & TO REPORT TO LEGISLATURE. EFFECTIVE DATE: UPON BECOMING LAW.

04/05/83 HOUSE FILED
04/11/83 HOUSE INTRODUCED; REFERRED TO REGULATORY REFORM, APPROPRIATIONS —HJ 00134

05/04/83 HOUSE ON COMMITTEE AGENDA— REGULATORY REFORM, 21 HOB, 8:00 AM, 05/06/83
05/06/83 HOUSE ON COMMITTEE AGENDA— APPROPRIATIONS, 21 HOB, 8:00 AM, 05/09/83
06/01/83 HOUSE COMMITTEE REPORT: FAVORABLE WITH AMEND., PLACED ON CALENDAR BY APPROPRIATIONS —HJ 00936
06/03/83 HOUSE INDEFINITELY POSTPONED & W/D (SCR 1209); WAS ON CALENDAR
06/24/83 REFER TO HB 18-B (Ch. 83-329)

H 0789 GENERAL BILL BY CASAS, CORINTA, ROS, SPAET AND OTHERS (IDENTICAL S 0634)

LEGAL COURT INTERPRETERS: ESTABLISHES BOARD OF LEGAL COURT INTERPRETERS WITHIN PROFESSIONAL REGULATION DEPT.; PROVIDES FOR REGULATION OF PRACTICE OF LEGAL & COURT INTERPRETERS; CREATES BOARD; PROVIDES QUALIFICATIONS FOR MEMBERSHIP; PROVIDES TERMS, ETC. AMENDS 20.30; CREATES §68.41-.48. EFFECTIVE DATE: 10/01/83.

04/05/83 HOUSE FILED
04/11/83 HOUSE INTRODUCED; REFERRED TO REGULATORY REFORM, APPROPRIATIONS —HJ 00134
05/04/83 HOUSE ON COMMITTEE AGENDA— REGULATORY REFORM, 21 HOB, 8:00 AM, 05/06/83
05/06/83 HOUSE ON COMMITTEE AGENDA— SUBCOM, REG. REFORM, 21 HOB, 8:00 AM, 05/10/83; ON COMMITTEE AGENDA, PENDING SUBCOMMITTEE ACTION— REGULATORY REFORM, 21 HOB, 9:30 AM, 05/10/83
05/12/83 HOUSE COMMITTEE REPORT: C/S BY REGULATORY REFORM —HJ 00384; NOW IN APPROPRIATIONS
05/30/83 HOUSE WITHDRAWN FROM APPROPRIATIONS —HJ 00781; PLACED ON CALENDAR
06/03/83 HOUSE INDEFINITELY POSTPONED & W/D (SCR 1209); WAS ON CALENDAR
06/24/83 REFER TO HB 18-B (Ch. 83-329)

M 0780 GENERAL BILL BY CASAS AND OTHERS (COMPARE ENG/S 0124)

ELDERLY ABUSE; PROVIDES THAT ABUSE, NEGLECT, EXPLOITATION, OR MALTREATMENT OF CERTAIN ELDERLY PERSONS, WITHOUT RESULTING INJURY TO SUCH PERSON BEING PROVEN, IS MISDEMEANOR OF FIRST DEGREE; PROVIDES PENALTIES. AMENDS 410.11. EFFECTIVE DATE: 10/01/83.

04/05/83 HOUSE FILED
04/11/83 HOUSE INTRODUCED; REFERRED TO CRIMINAL JUSTICE —HJ 00135
04/18/83 HOUSE REFERRED TO SUBCOMMITTEE ON CRIMINAL CODE
04/28/83 HOUSE ON COMMITTEE AGENDA— SUBCOM, CRIM. JUSTICE, 314 HOB, 1:00 PM, 05/02/83; ON COMMITTEE AGENDA, PENDING SUBCOMMITTEE ACTION— CRIMINAL JUSTICE, 314 HOB, 3:00 PM, 05/02/83
06/03/83 HOUSE INDEF. POSTPONED & W/D (SCR 1209); WAS IN COMMITTEE ON REGULATORY REFORM

04/05/83 HOUSE FILED
04/11/83 HOUSE INTRODUCED; REFERRED TO CRIMINAL JUSTICE —HJ 00135
04/18/83 HOUSE REFERRED TO SUBCOMMITTEE ON CRIMINAL CODE
04/28/83 HOUSE ON COMMITTEE AGENDA— SUBCOM, CRIM. JUSTICE, 314 HOB, 1:00 PM, 05/02/83; ON COMMITTEE AGENDA, PENDING SUBCOMMITTEE ACTION— CRIMINAL JUSTICE, 314 HOB, 3:00 PM, 05/02/83
06/03/83 HOUSE INDEF. POSTPONED & W/D (SCR 1209); WAS IN COMMITTEE ON REGULATORY REFORM
H 1186  GENERAL BILL BY HEALTH & REHABILITATIVE SERVICES [COMPARE CS/H 0844, CS/S 1034]

COMMUNITY MENTAL HEALTH SERVICES; AMENDS PROVISION RELATING TO STATE & LOCAL FINANCING OF PROGRAMS & SERVICES; TO PROVIDE THAT CERTAIN SERVICES & PROGRAMS SHALL NOT REQUIRE LOCAL MATCHING FUNDS; AMENDS §94.76. EFFECTIVE DATE: 10/01/83.
04/27/83 HOUSE FILED; INTRODUCED, REFERRED TO FINANCE & TAXATION, APPROPRIATIONS -HJ 00247
05/02/83 HOUSE ON COMMITTEE AGENDA-- FOR SUBREFERRAL, 21 HOB, 1:30 PM, 05/04/83
05/04/83 HOUSE SUBREFERRED TO SUBCOMMITTEE ON AD VALOREM TAX AND LOCAL GOVERNMENT
05/12/83 HOUSE WITHDRAWN FROM FINANCE & TAXATION -HJ 00381; NOW IN APPROPRIATIONS
06/03/83 HOUSE INDEFINITELY POSTPONED & W/D (SCR 1209); WAS IN COMMITTEE ON APPROPRIATIONS

H 1187  GENERAL BILL BY HEALTH & REHABILITATIVE SERVICES AND OTHERS [SIMILAR CS/S 1148]

MENTALLY DISABROD SEX OFFENDERS; DIRECTS M.R.S. DEPT. TO CONTRACT WITH FLA. MENTAL HEALTH INSTITUTE TO PERFORM ASSESSMENT OF SEXUAL OFFENDER TREATMENT PROGRAMS; CREATES TASK FORCE ON SEXUAL OFFENDERS & VICTIMS, ETC. REPEALS §95.1261(8), 917.012(2), 014(2), §186(2), §17121, §186(2), §19121, §212(2). APPROPRIATION: $50,000.
04/27/83 HOUSE FILED; INTRODUCED, REFERRED TO APPROPRIATIONS -HJ 00247
05/06/83 HOUSE SUBREFERRED TO SUBCOMMITTEE ON HRS/CRIMINAL JUSTICE (SUB. II), ON COMMITTEE AGENDA-- SUBCOMMITTEE, APPROPRIATIONS, 317 C, 4:10 PM, 05/09/83
05/12/83 HOUSE ON COMMITTEE AGENDA-- APPROPRIATIONS, 21 HOB, 1:00 PM, 05/15/83
05/18/83 HOUSE COMM. REPORT: FAVORABLE WITH AMENDS.; PLACED ON CALENDAR-- APPROPRIATIONS -HJ 00486
05/19/83 HOUSE PLACEU ON SPECIAL ORDER CALENDAR
05/24/83 HOUSE READ SECOND TIME; AMENDMENT ADOPTED -HJ 00562
05/25/83 HOUSE READ THIRD TIME; PASSED AS AMENDED; YEA 116 NAYS 0 -HJ 00572
05/25/83 HOUSE IN MESSAGES
05/26/83 SENATE RECEIVED; REFERRED TO JUDICIARY-CRIMINAL; WITHDRAWN FROM JUDICIARY-CRIMINAL; SUBSTITUTED FOR CS/SB 1148; PASSED AS AMENDED; YEA 35 NAYS 1 -SJ 00445; IMMEDIATELY CERTIFIED -SJ 00447
05/26/83 HOUSE IN MESSAGES
05/27/83 HOUSE CONCURRED; PASSED AS FURTHER AMENDS.; YEA 114 NAYS 0 -HJ 00667; ORDERED ENGROSSED, THEN ENROLLED
06/01/83 HOUSE SIGNED BY O-FILERS AND PRESENTED TO GOVERNOR -HJ 00937
06/08/83 APPROVED BY GOVERNOR CHAPTER NO. 83-109

M 1186  GENERAL BILL BY HEALTH & REHABILITATIVE SERVICES [SIMILAR CS/H 0644, ENG/S 0124, CS/S 0990]

AGING AND ORPHANS SERVICES; AMENDS PROVISION RE PROTECTION OF ABUSED, AGED, & DISABLED PERSONS; REQUIRES CERTAIN REPORTS & AUTHORIZES THE DEPARTMENT TO TAKE CERTAIN ACTION WITH RESPECT THERE TO; PROVIDES FOR CERTAIN CONFIDENTIALITY, ETC. AMENDS §827.09, 410.025; REPEALS 410.10-11. EFFECTIVE DATE: 07/01/83.
04/27/83 HOUSE FILED; INTRODUCED, PLACED ON CALENDAR -HJ 00247
05/19/83 HOUSE PLACEU ON SPECIAL ORDER CALENDAR
05/25/83 HOUSE READ SECOND TIME -HJ 00591; AMENDMENTS ADOPTED -HJ 00594
05/27/83 HOUSE WITHDRAWN FROM CALENDAR, RECOMMITTED TO HEALTH & REHABILITATIVE SERVICES -HJ 00647
06/03/83 HOUSE INDEF. POSTPONED & W/O (SCR 1209); WAS IN COMMITTEE; ISC BILL PASSED, SEE SB 124 (CH. 83-82)
### FLORIDA STATUTES

#### FLORIDA STATUTE CHAPTER 813

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*BILLS UNDERLINED HAVE PASSED BOTH HOUSES*

(CITATOR INCLUDES COMMITTEE SUBS & AMENDED BILLS)
A bill to be entitled
An act relating to abuse of the elderly;
amending s. 410.11, Florida Statutes; providing
that abuse, neglect, exploitation, or
maltreatment of certain elderly persons,
without resulting injury to such person being
proven, is a misdemeanor of the first degree;
providing penalties; providing an effective
date.

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

Section 1. Section 410.11, Florida Statutes, is
amended to read:

410.11 Penalties.--
(1) Any person who knowingly or willfully abuses,
neglects, exploits, or maltreats an individual suffering from
the infirmities of aging and, in so doing, causes great bodily
harm, permanent disfigurement, or permanent disability to such
person is guilty of a felony of the third degree, punishable
as provided in s. 775.082, s. 775.083, or s. 775.084.

(2) Any person who knowingly or willfully abuses,
neglects, exploits, or maltreats an individual suffering from
the infirmities of aging and, in so doing, causes minor
injury, temporary disfigurement, or temporary disability to
such person is guilty of a misdemeanor of the first degree,
punishable as provided in s. 775.082, s. 775.083, or s.
775.084.

Section 2. This act shall take effect October 1, 1983.
SENATE SUMMARY

Removes the requirement that abuse, neglect, exploitation, or maltreatment of persons suffering from the infirmities of age cause minor injury, temporary disfigurement, or temporary disability in order to constitute a misdemeanor of the first degree.

CODING: Words in struck through type are deletions from existing law; words underlined are additions.
SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

***************************************************************************
NOTE: This analysis reflects the nature of the bill as it left the Committee on Judiciary-Criminal. Any further changes to the bill are not included in this analysis. See the "Comments" section for the final procedural action taken by the Legislature.
***************************************************************************

ANALYST STAFF DIRECTOR REFERENCE ACTION
2. 3. 3. 
SUBJECT: BILL NO. AND SPONSOR:
Abuse of the Elderly SB 124 by Senator Dunn

I. SUMMARY:

A. Present Situation:

The "Adult Protective Services Act," sections 410.10 - 410.11, Florida Statutes, was designed to provide protective services for adults suffering from the infirmities of aging.

Section 410.11 provides penalties for knowing and willful abuse, neglect, exploitation, or maltreatment of a person suffering from the infirmities of aging. It is a third degree felony offense if great bodily harm, permanent disfigurement, or permanent disability results. If minor injury, temporary disfigurement, or temporary disability results, it is a first degree misdemeanor.

B. Effect of Proposed Changes:

This bill removes the requirement for proof of injury in order to convict a person for the misdemeanor offense of abuse, neglect, exploitation, or maltreatment of an elderly person. Therefore, the mistreatment of elderly people could be punished as a first degree misdemeanor regardless of whether any injury resulted.

II. ECONOMIC IMPACT AND FISCAL NOTE:

A. Public:

None.

B. Government:

Removing the injury requirement for prosecution may result in more convictions for abuse, neglect, exploitation or maltreatment of the elderly. It is expected that this increase will be minimal.
III. COMMENTS:

SB 124 is identical to HB 790.


IV. AMENDMENTS:

None.
Journal
of the
SENATE
State of Florida

FIFTEENTH REGULAR SESSION
UNDER THE CONSTITUTION AS REVISED IN 1968
APRIL 5 THROUGH JUNE 13, 1983
Years—36

Mr. President  Fox  Hill  McPherson
Barron  Frank  Jenne  Myers
Beard  Gersten  Jennings  Neal
Carlucci  Girardeau  Johnston  Plummer
Castor  Gordon  Langley  Scott
Childers, D.  Grant  Malchon  Stuart
Childers, W D  Hair  Mann  Thomas
Crawford  Hair  Margolis  Vogt
Dunn  Hill  McPherson  Weinsein

Nays—None

Vote after roll call:

Yea—Carlucci, Malchon

CS for SB 783—A bill to be entitled An act relating to solid waste transport, amended ss 403.713, Florida Statutes; providing for special laws or local ordinances limiting the free flow of solid waste; providing an effective date.

—was read the second time by title. On motion by Senator Castor, by two-thirds vote CS for SB 783 was read the third time by title, passed and certified to the House. The vote on passage was:

Years—36

Mr President  Fox  Hill  McPherson
Barron  Frank  Jenne  Myers
Beard  Gersten  Jennings  Neal
Carlucci  Girardeau  Johnston  Plummer
Castor  Gordon  Langley  Scott
Childers, D.  Grant  Malchon  Stuart
Childers, W D  Grant  Margolis  Thomas
Crawford  Hair  Margolis  Vogt
Dunn  Hill  McPherson  Weinsein

Nays—None

Vote after roll call:

Yea—Scott

CS for SB 306—A bill to be entitled An act relating to comprehensive health education program; amending ss 233.067(4)(b), Florida Statutes, 1982 Supplement; providing that such program include the development of programs, training, and materials for life fitness and wellness programs; providing an effective date.

—was read the second time by title. On motion by Senator W D. Childers, by two-thirds vote SB 306 was read the third time by title, passed and certified to the House. The vote on passage was:

Years—38

Mr. President  Fox  Hill  McPherson
Barron  Frank  Jenne  Myers
Beard  Gersten  Jennings  Neal
Carlucci  Girardeau  Johnston  Plummer
Castor  Gordon  Langley  Scott
Childers, D.  Grant  Malchon  Stuart
Childers, W D  Grant  Margolis  Thomas
Crawford  Hair  Margolis  Vogt
Dunn  Hill  McPherson  Weinsein

Nays—None

On motion by Senator W D. Childers, the rules were waived and SB 306 was ordered immediately certified to the House.

SB 315—A bill to be entitled An act relating to the excise tax on documents, amending ss 201.04(1), 201.05, Florida Statutes, providing that the excise tax on documents not apply to the stocks or shares of certain mutual funds, providing an effective date.

—was read the second time by title. On motion by Senator Crawford, by two-thirds vote SB 315 was read the third time by title, passed and certified to the House. The vote on passage was:

Years—34

Mr President  Gersten  Hill  McPherson
Barron  Girardeau  Jenne  Stuart
Beard  Gordon  Jennings  Thomas
Carlucci  Grant  Malchon  Myers
Castor  Girardeau  Margolis  Weinsein
Childers, W D  Grant  Maxwell  Vogt
Crawford  Hair  McPherson  Weinsein
Dunn  Hill  Myers  Weinsein
Frank  Jennings  Neal

Nays—None

Vote after roll call:

Yea—D. Childers, Jenne

SB 124—A bill to be entitled An act relating to abuse of the elderly; amending s. 410.11, Florida Statutes, providing that abuse, neglect, exploitation, or maltreatment of certain elderly persons, without resulting injury to such person being proven, is a misdemeanor of the first degree, providing penalties; providing an effective date
was read the second time by title. 

The Committee on Judiciary-Criminal recommended the following amendments which were moved by Senator Dunn and adopted

Amendment 1-On page 1, lines 13-29, strike everything after the enacting clause and insert:

Section 1. Section 827.09, Florida Statutes, is amended to read:

(2) "Abuse" means the intentional or negligent infliction of pain or suffering of an aged or disabled person which is likely to cause impairment of physical or emotional health; or is subject to physical or psychological injury.

(3) "Abused person" means any aged or disabled person who has been subjected to abuse or whose condition suggests that he has been abused.

(4) "Aged person" means a person suffering from the infirmities of aging as manifested by organic brain damage, advanced age, or other physical, mental, or emotional dysfunctioning to the extent that the person is impaired in his ability to adequately provide for his own care or protection.

(5) "Department" means the Department of Health and Rehabilitative Services.

(6) "Disabled person" means any person who suffers from a condition of mental retardation, epilepsy, cerebral palsy, mental illness, or other disability which causes the person to be substantially unable to protect himself from the abusive conduct of others.

(7) "Exploitation" means an unjust or improper use of another person for one's own profit or advantage.

(8) "Facility" means any public or private hospital, training center, clinic, school, or other program or service for aged or disabled persons.

(9) "Indicated report" means a report made pursuant to this section when a protective investigation determines that some indication of abuse, neglect, or exploitation exists.

(10) "Neglect" means to omit, forbear, or fail to exercise a degree of care and caution that a prudent person would deem essential to insure the well-being of an aged or disabled person and, by such omission, forbearance, or failure, significantly impair or jeopardize the physical or emotional health of the aged or disabled person.

(11) "Protective services" means those services, the objective of which is to protect an aged or disabled person. Such protective services shall include, but shall not be limited to, evaluation of the need for services, arrangements for appropriate living quarters, obtaining financial benefits to which the person is entitled, or securing medical and legal services in those situations where exploitation, prevention of injury, and protection of the person and his property are at issue, protective services shall include seeking the appointment of a guardian for the person or seeking protective placement.

(k) "Unfounded report" means a report made pursuant to this section when a protective investigation determines that no indication of abuse, neglect, or exploitation exists.

(3) REPORTS OF ABUSE, NEGLECT, OR EXPLOITATION OF AGED OR DISABLED PERSONS REQUIRED.—

(a) Any person, including, but not limited to, any.

1. Physician, osteopath, medical examiner, chiropractor, nurse, or hospital personnel engaged in the admission, examination, care, or treatment of persons

2. Health or mental health professional other than one listed in subparagraph 1.

3. Practitioner who relies solely on spiritual means for healing.

4. Nursing home worker, adult congregate living facility worker, adult day care center worker, social worker, or other professional adult care, foster care, residential or institutional worker.

(b) Each report made by a person in an occupation designated in paragraph (a) shall be confirmed in writing by the individual making the report to the local office of the department within 48 hours of the initial report.

(c) Reports involving known or suspected institutional abuse, neglect, or exploitation shall be made and received in the same manner as all other reports made pursuant to this section.

(d) The statewide tollfree telephone number for the central abuse registry shall be posted in all facilities operated by or under contract with or licensed by the department which provide services to aged or disabled persons.

(e) Reports of abuse, neglect, or exploitation shall be made by or under contract with or licensed by the department which provide services to aged or disabled persons.

(f) Postings shall be clear and in a prominent place within the facility and shall be accompanied by the words, "To Report the Abuse, Neglect, or Exploitation of an Elderly or Disabled Person, Please call the Tollfree Number"

4. MANDATORY REPORTING OF DEATH AND POSTMORTEM INVESTIGATION BY MEDICAL EXAMINER.—Any person required to report or investigate cases of suspected abuse, neglect, or exploitation who has reasonable cause to suspect that an aged or disabled person died as a result of abuse, neglect, or exploitation, shall report his suspicion to the appropriate medical examiner. The medical examiner shall accept the report for investigation pursuant to s. 406.11 and shall report his findings, in writing, to the local law enforcement agency, the appropriate state attorney, and the department. Autopsy reports maintained by the medical examiner shall not be subject to the confidentiality requirements provided for in this section.

5. REPORTS OF INSTITUTIONAL ABUSE, NEGLECT, OR EXPLOITATION.—The department shall conduct a protective investigation of each report of institutional abuse, neglect, or exploitation. Upon receipt of a report which alleges that an employee or agent of the department acting in an official capacity, has committed an act of abuse, neglect, or exploitation, the department shall immediately initiate a protective investigation and shall notify the state attorney in whose circuit the alleged abuse, neglect, or exploitation occurred.

6. ABUSE REGISTRY.—

(a) The department shall establish and maintain a central abuse registry which shall receive reports made pursuant to this section in writing or through a single statewide tollfree telephone number which may be used to report known or suspected abuse, neglect, or exploitation at any hour of the day or night, any day of the week. The abuse registry shall be operated in such a manner as to enable the department to

1. Immediately identify and locate prior reports of cases of abuse, neglect, or exploitation.

2. Regularly evaluate the effectiveness of the department's program for abused, neglected, or exploited persons through the development and analysis of statistical and other information.
(b) Upon receiving an oral or written report of known or suspected abuse, neglect, or exploitation, the abuse registry shall immediately notify the local office of the department with respect to the report, any previous report concerning a subject of the present report, or any other pertinent information relative thereto.

(c) Upon completion of its investigation, the local office of the department shall classify reports either as indicated or unfounded. All identifying information in the abuse registry maintained in unfounded reports shall be expunged immediately. All identifying information in the abuse registry maintained in indicated reports shall be expunged from the registry 7 years from the date of the last indicated report concerning the same victim or the same perpetrator. All information, other than identifying information, maintained in indicated or unfounded reports at the time of expunction shall be disposed of in a manner deemed appropriate by the department and pursuant to s. 119.041 and s. 267.051(6).

Nothing in this section is intended to require the expunction or destruction of case records or information required by the Federal Government to be retained for future audit.

(7) PROTECTIVE INVESTIGATIONS —

(a) The department shall, upon receipt of a report of abuse, neglect, or exploitation of an aged or disabled person, cause an immediate protective investigation to be made and shall in turn, upon determining probable cause, notify the state attorney. The department shall, within 24 hours of receipt of the report notify the appropriate human rights advocacy committee, as established pursuant to s. 20.19(7), that an alleged abuse has occurred. Such notice may be accomplished verbally or in writing and shall include the name of the person alleged to have been abused and the nature of the report. The department shall provide protective services under any of the following conditions:

1. The person demonstrates a need for, and requests, such services.

2. An interested person requests such services on behalf of a person in need of services.

3. The department determines a person is in need of such services.

4. A court orders such services.

(b) Voluntary services -- An individual shall receive protective services voluntarily unless ordered by the court, requested by a guardian, or provided in accordance with subsection (8).

(8) INVOLUNTARY PROVISION OF SERVICES —

(a) Every reasonable effort shall be made to secure the consent and participation of the aged or disabled person in the assessment and resolution of his own need for protective services.

(b) Upon probable cause to believe that an aged or disabled person is being abused, neglected, or exploited, a representative of the department, accompanied by a law enforcement officer may enter a premises after obtaining a court order and announcing their authority and purpose.

(c) Forcible entry shall be attained only after a court order has been obtained, unless there is probable cause to believe that the delay incident to such an order would cause an aged or disabled person to incur a substantial risk of life-threatening physical harm.

(d) When, from the personal observation of a representative of the department and a law enforcement officer, it appears probable that an aged or disabled person is likely to incur a substantial risk of life-threatening physical harm or deterioration if not immediately removed from the premises, the department's representative may, when authorized by a court order, take into custody and transport, or make arrangements for the transportation and payment thereof, the individual to an appropriate medical or protective services facility.

(e) When action is taken under this section, a preliminary hearing shall be held within 48 hours of the signing of the court order, excluding Saturdays, Sundays, and legal holidays, to establish probable cause for grounds for protective placement.

(f) Upon a finding of probable cause, the court may order temporary placement for up to 4 days, pending the hearing for a need for continuing services.

(9) COOPERATION WITH LAW ENFORCEMENT AND OTHER AGENCIES.—

(a) All state, county, and municipal law enforcement and public agencies have a duty to cooperate with the department and its employees, transmit reports of abuse, neglect, and exploitation to the department, and protect and enhance the welfare of aged or disabled persons who are potentially subject to abuse, neglect, or exploitation detected by a report made pursuant to this section.

(b) Any funds appropriated by counties for home health care or boarding home, foster home, or nursing home services may be matched by state and federal funds; such funds shall be utilized by the Department of Health and Rehabilitative Services for the benefit of aged or disabled persons in said counties.

(c) The Department of Health and Rehabilitative Services may purchase services from any public or private institution, or institution or agency within the state which meets the standards and rules prescribed by the department for the proper care and supervision of abused, neglected, or exploited persons.

(d) Every facility serving aged or disabled persons shall inform residents of their rights to report abusive, neglectful, or exploitative practices and shall establish appropriate policies and procedures to facilitate such reporting.

(10) CONFIDENTIALITY OF REPORTS AND RECORDS.—

(a) In order to protect the rights of the individual or other persons responsible for the welfare of the aged or disabled person, all records concerning reports of abuse, neglect, or exploitation of the aged or disabled person, including reports made to the abuse registry and to local offices of the department and all records generated as a result of such reports, shall be confidential and exempt from the provisions of s. 119.071(1), and shall not be disclosed except as specifically authorized by this section.

(b) Access to such records, excluding the name of the person making the report, which shall be released only as provided in paragraph (d), shall be granted only to the following persons, officials, and agencies for the following purposes:

1. Employees or agents of the department responsible for carrying out protective investigations, ongoing protective services, or licensure or approval of nursing homes, adult congregate living facilities, adult day care centers or other facilities, used for the placement of aged or disabled persons.

2. A law enforcement agency investigating a report of known or suspected abuse, neglect, or exploitation.

3. The state attorney of the judicial circuit in which the aged or disabled individual resides or in which the alleged abuse, neglect, or exploitation occurred.

4. Any aged or disabled person or perpetrator who is the subject of a report or the subject's guardian, custodian, guardian ad litem, or counsel.

5. A court, by subpoena, upon its finding that access to such records may be necessary for the determination of an issue before the court; however, such access shall be limited to in camera inspection, unless the court determines that public disclosure of the information contained therein is necessary for the resolution of an issue then pending before it.

6. A grand jury, by subpoena, upon its determination that access to such records is necessary in the conduct of its official business.

7. Any appropriate official of the department responsible for:

a. Administration or supervision of the department's program for the prevention, investigation, or treatment of abuse, neglect, or exploitation when carrying out his official function, or

b. Taking appropriate administrative action concerning an employee of the department alleged to have perpetrated institutional abuse, neglect, or exploitation.

8. Any person engaged in bona fide research or audit purposes. However, no information identifying the subjects of the report shall be made available to the researcher unless such information is absolutely essential to the research purpose, suitable provision is made to maintain the confidentiality of the data, and the department has given written approval.

(c) The department may release to professional persons such information as is necessary for the diagnosis and treatment of the victim or the person perpetrating the abuse.
(d) The name of any person reporting abuse, neglect, or exploitation shall in no case be released to any person other than employees of the department responsible for protective services, the abuse registry, or the appropriate state attorney without the written consent of the person reporting abuse, neglect, or exploitation when deemed necessary by the state attorney or the department to protect an aged or disabled person who is the subject of a report, provided that the fact that such person made the report is not disclosed. The department shall, upon receipt of an application of a person applying for approval or licensure of a facility to care for the aged or disabled persons, whether such care is for less than or more than 24 hours, search its abuse registry for the existence of an indicated report and the results of the adult protective assessment conducted pursuant thereto.

(11) TRANSMITTAL OF RECORDS.—With respect to any case of reported abuse of an aged or disabled person, the department, when appropriate, shall transmit all reports received by it, which shall contain the results of the investigation, to the state attorney of the county where the incident occurred.

(12) IMMUNITY.—Anyone participating in the making of a report pursuant to this section or participating in a judicial proceeding resulting therefrom shall be presumed prima facie to be acting in good faith and in so doing shall be immune from any liability, civil or criminal, that otherwise might be incurred or imposed. Further, no resident or employee of a facility serving aged or disabled persons shall be subjected to reprimand or discharge because of his actions in reporting abuse pursuant to the requirements of this section.

(13) ABRIDGMENT OF PRIVILEGED COMMUNICATIONS.—The privileged quality of communication between a husband and wife and between any professional person and his patient or client, and any other privileged communication except that between attorney and client, as such communication relates to both the competency of the witness and to the exclusion of confidential communications, shall not apply to any situation involving known or suspected abuse, neglect, or exploitation and shall not constitute grounds for failure to report as required by this section, failure to cooperate with the department in its activities pursuant to this section, or failure to give evidence in any judicial proceeding relating to abuse, neglect, or exploitation of an aged or disabled person.

(14) RULES TO BE PROMULGATED.—The Department of Health and Rehabilitative Services shall promulgate rules for the implementation of this section.

(15) PENALTIES —

(a) Any person required by this section to report a case of known or suspected abuse, neglect, or exploitation of an aged or disabled person who knowingly and willfully fails to do so, or who knowingly and willfully prevents another person from doing so, is guilty of a misdemeanor of the second degree, punishable as provided in s 775.082, s 775.083, or s 775.084.

(b) Any person who knowingly and willfully makes public or discloses any confidential information contained in the abuse registry or in the records of any case of abuse, neglect, or exploitation except as provided in this section, is guilty of a misdemeanor of the second degree, punishable as provided in s 775.082, s 775.083, or s 775.084.

(c) Any person who knowingly or willfully abuses, neglects or exploits an aged or disabled person and, in so doing, causes great bodily harm, permanent disfigurement, or permanent disability to such person is guilty of a felony of the third degree, punishable as provided in s 775.082, s 775.083, or s 775.084.

(d) Any person who knowingly or willfully abuses, neglects, or exploits an aged or disabled person is guilty of a misdemeanor of the first degree, punishable as provided in s 775.082, s 775.083, or s 775.084.

Section 2 Section 410.035, Florida Statutes, is amended to read

410.035 Subsidy payments —

(1) The department shall develop by October 1, 1983, a schedule of subsidy payments to be made to persons providing home care for certain eligible elderly persons. Payments shall be no less than 10 percent of the prevailing rate paid by the department for the lowest level of nursing home care under s 410.034, and no greater than 45 percent of said amount. Payments shall be based on the financial status of the person receiving care. Payments shall include, but not be limited to:

(a) A support and maintenance element, to include costs of housing, food, clothing, and incidentals.

(b) Payments for medical, pharmaceutical, and dental services essential to maintain the health of the elderly person and not covered by Medicare, Medicaid, or any form of insurance.

(c) When necessary, special supplements to provide for any service and specialized care required to maintain the health and well-being of the elderly person.

(2) The department shall develop a plan for the implementation of the schedule of uniform subsidy payments to persons providing home care for the elderly.

Section 3 Sections 410.10-410.11, Florida Statutes, are hereby repealed.

Section 4 This act shall take effect July 1, 1983.

Amendment 2—in title, on page 1, lines 1-9, strike everything before the enacting clause and insert: A bill to be entitled An act relating to the Department of Health and Rehabilitative Services, amending s 827.09, Florida Statutes, relating to protection of abused, aged, and disabled persons, requiring certain reports and authorizing the department to take certain action with respect thereto, providing for certain confidentiality, providing penalties, amending s 410.035, Florida Statutes, relating to subsidy payments, providing for development of a schedule of subsidy payments by October 1, 1983; deleting minimum and maximum limits thereon, repealing ss. 410.10-410.11, Florida Statutes, relating to the “Adult Protective Services Act,” providing an effective date. On motion by Senator Dunn, by two-thirds vote SB 124 as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was

Years—36

Mr. President Frank Jennings Myers
Barron Gersten Johnston Neal
Beard Girardeau Kirkpatrick Rehm
Carlucci Gordon Malchon Scott
Castor Grant Mann Stuart
Childers, D Grizzle Margolis Thomas
Childers, W D. Hair Maxwell Thurman
Dunn Henderson McPherson Vogt
Fox Jenne Meek Weinstein

Nays—None

Vote after roll call.

Yea—Crawford, Langley

SB 545—A bill to be entitled An act relating to historic preservation, designating Sunset Drive as a historic highway, providing definitions; prohibiting the use of state funds for certain physical changes on or near Sunset Drive; requiring the approval of the Division of Archives, History and Records Management of the Department of State for other specified changes; limiting the erection of signs, authorizing the division to erect markers and to obtain historic easements in property along the road, providing an effective date

was read the second time by title

The Committee on Governmental Operations recommended the following amendment which was moved by Senator Fox and adopted

Amendment 1—On page 2, strike all of lines 23-30 and insert:

(1) “Sunset Drive” means those portions of Sunset Drive located between Cartagena Plaza and Southwest 56th Avenue and between Southwest 69th Avenue and Southwest 87th Avenue, otherwise known as Galloway Road, in Dade County.

On motion by Senator Fox, by two-thirds vote SB 545 as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was

Years—37

Mr. President Beard Castor Childers, W D. Crawford
Barron Carlucci Childers, D.

JOURNAL OF THE SENATE

May 25, 1983
A bill to be entitled

An act relating to the Department of Health and
Rehabilitative Services; amending s. 827.09, Florida Statutes, relating to protection of
abused, aged, and disabled persons; requiring
certain reports and authorizing the department
to take certain action with respect thereto;
providing for certain confidentiality;
providing penalties; repealing ss. 410.10-
410.11, Florida Statutes, relating to the
"Adult Protective Services Act;" providing an
effective date.

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

Section 1. Section 827.09, Florida Statutes, is
amended to read:

(Substantial rewording of section. See
s. 827.09, F.S., for present text.)

827.09 Abuse, neglect, or exploitation of aged or
disabled persons.--

(1) LEGISLATIVE INTENT.--The Legislature recognizes
that there are many persons in this state who, because of age
or disability, are in need of protective services. Such
services should allow the individual the same rights as other
citizens, and at the same time protect the individual from
abuse, neglect, and exploitation. It is the intent of the
Legislature to provide for the detection and correction of
abuse, neglect, and exploitation and to establish a program of
protective and supportive services for all persons in need of
them. It is intended that the mandatory reporting of such

CODING: Words in struck through type are deletions from existing law, words underlined are additions.
cases will cause the protective services of the state to be
brought to bear in an effort to prevent further abuse,
neglect, and exploitation. In doing so, the Legislature
intends to place the least possible restrictions on personal
liberty and the exercise of constitutional rights, consistent
with due process and protection from abuse, neglect, and
exploitation.

(2) DEFINITIONS.--As used in this section:
(a) "Abuse" means treatment under which an aged or
disabled person is deprived, or allowed to be deprived, of
necessary treatment, habilitation, care, sustenance, clothing,
shelter, supervision, or medical services essential to his
well-being, or is permitted to live in an environment, when
such deprivation or environment causes, or is likely to cause
impairment of physical or emotional health.
(b) "Abused person" means any aged or disabled person
who has been subjected to abuse or whose condition suggests
that he has been abused.
(c) "Aged person" means a person suffering from the
infirmities of aging as manifested by organic brain damage,
advanced age, or other physical, mental, or emotional
dysfunctioning to the extent that the person is impaired in
his ability to adequately provide for his own care or
protection.
(d) "Department" means the Department of Health and
Rehabilitative Services.
(e) "Disabled person" means any person who suffers
from a condition of mental retardation, epilepsy, cerebral
palsy, mental illness, or other disability which causes the
person to be substantially unable to protect himself from the
abusive conduct of others.
(f) "Exploitation" means an unjust or improper use of another person for one's own profit or advantage.

(g) "Facility" means any public or private hospital, training center, clinic, school, or other program or service for aged or disabled persons.

(h) "Indicated report" means a report made pursuant to this section when a protective investigation determines that some indication of abuse, neglect, or exploitation exists.

(i) "Neglect" means to omit, forbear, or fail to exercise a degree of care and caution that a prudent person would deem essential to insure the well-being of an aged or disabled person and, by such omission, forbearance, or failure, significantly impair or jeopardize the physical or emotional health of the aged or disabled person.

(j) "Protective services" means those services, the objective of which is to protect an aged or disabled person. Such protective services shall include, but shall not be limited to, evaluation of the need for services, arrangements for appropriate living quarters, obtaining financial benefits to which the person is entitled, or securing medical and legal services. In those situations where exploitation, prevention of injury, and protection of the person and his property are at issue, protective services shall include seeking the appointment of a guardian for the person or seeking protective placement.

(k) "Unfounded report" means a report made pursuant to this section when a protective investigation determines that no indication of abuse, neglect, or exploitation exists.

(3) REPORTS OF ABUSE, NEGLECT, OR EXPLOITATION OF AGED OR DISABLED PERSONS REQUIRED. --

(a) Any person, including, but not limited to, any:

CODING: Words in <s>strikethrough type are deletions from existing law; words <u>underlined> are additions.
1. Physician, osteopath, medical examiner,
   chiropractor, nurse, or hospital personnel engaged in the
   admission, examination, care, or treatment of persons.

2. Health or mental health professional other than one
   listed in subparagraph 1.

3. Practitioner who relies solely on spiritual means
   for healing.

4. Nursing home worker, adult congregate living
   facility worker, adult day care center worker, social worker,
   or other professional adult care, foster care, residential or
   institutional worker.

5. Law enforcement officer.

who knows, or has reasonable cause to suspect, that an aged or
disabled person is an abused, neglected, or exploited person
shall immediately report such knowledge or suspicion to the
department's abuse registry on the single statewide tollfree
telephone number or directly to the local office of the
department responsible for investigation of reports made
pursuant to this section.

(b) Each report made by a person in an occupation
designated in paragraph (a) shall be confirmed in writing by
the individual making the report to the local office of the
department within 48 hours of the initial report.

(c) Reports involving known or suspected institutional
abuse, neglect, or exploitation shall be made and received in
the same manner as all other reports made pursuant to this
section.

(4) MANDATORY REPORTING OF DEATH AND POSTMORTEM
INVESTIGATION BY MEDICAL EXAMINER.--Any person required to
report or investigate cases of suspected abuse, neglect, or
exploitation who has reasonable cause to suspect that an aged or disabled person died as a result of abuse, neglect, or exploitation, shall report his suspicion to the appropriate medical examiner. The medical examiner shall accept the report for investigation pursuant to s. 406.11 and shall report his findings, in writing, to the local law enforcement agency, the appropriate state attorney, and the department. Autopsy reports maintained by the medical examiner shall not be subject to the confidentiality requirements provided for in this section.

(5) REPORTS OF INSTITUTIONAL ABUSE, NEGLECT, OR EXPLOITATION.--The department shall conduct a protective investigation of each report of institutional abuse, neglect, or exploitation. Upon receipt of a report which alleges that an employee or agent of the department acting in an official capacity, has committed an act of abuse, neglect, or exploitation, the department shall immediately initiate a protective investigation and shall notify the state attorney in whose circuit the alleged abuse, neglect, or exploitation occurred.

(6) ABUSE REGISTRY.--

(a) The department shall establish and maintain a central abuse registry which shall receive reports made pursuant to this section in writing or through a single statewide tollfree telephone number which any person may use to report known or suspected abuse, neglect, or exploitation at any hour of the day or night, any day of the week. The abuse registry shall be operated in such a manner as to enable the department to:

1. Immediately identify and locate prior reports or cases of abuse, neglect, or exploitation.

CODING: Words in struck through type are deletions from existing law, words underlined are additions.
2. Regularly evaluate the effectiveness of the department's program for abused, neglected, or exploited persons through the development and analysis of statistical and other information.

(b) Upon receiving an oral or written report of known or suspected abuse, neglect, or exploitation, the abuse registry shall immediately notify the local office of the department with respect to the report, any previous report concerning a subject of the present report, or any other pertinent information relative thereto.

(c) Upon completion of its investigation, the local office of the department shall classify reports either as indicated or unfounded. All identifying information in the abuse registry maintained in unfounded reports shall be expunged immediately. All identifying information in the abuse registry maintained in indicated reports shall be expunged from the registry 7 years from the date of the last indicated report concerning the same victim or the same perpetrator. All information, other than identifying information, maintained in indicated or unfounded reports at the time of expunction shall be disposed of in a manner deemed appropriate by the department and pursuant to s. 119.041 and s. 267.051(6). Nothing in this section is intended to require the expunction or destruction of case records or information required by the Federal Government to be retained for future audit.

(7) PROTECTIVE INVESTIGATIONS.--

(a) The department shall, upon receipt of a report of abuse, neglect, or exploitation of an aged or disabled person, cause an immediate protective investigation to be made and shall in turn, upon determining probable cause, notify the...
state attorney. The department shall, within 24 hours of receipt of the report notify the appropriate human rights advocacy committee, as established pursuant to s. 20.19(7), that an alleged abuse has occurred. Such notice may be accomplished verbally or in writing and shall include the name of the person alleged to have been abused and the nature of the report. The department shall provide protective services under any of the following conditions:

1. The person demonstrates a need for, and requests, such services.
2. An interested person requests such services on behalf of a person in need of services.
3. The department determines a person is in need of such services.
4. A court orders such services.

(b) Voluntary services.--An individual shall receive protective services voluntarily unless ordered by the court, requested by a guardian, or provided in accordance with subsection (8).

(8) INVOLUNTARY PROVISION OF SERVICES.--

(a) Every reasonable effort shall be made to secure the consent and participation of the aged or disabled person in the assessment and resolution of his own need for protective services.

(b) Upon probable cause to believe that an aged or disabled person is being abused, neglected, or exploited, a representative of the department, accompanied by a law enforcement officer may enter a premises after obtaining a court order and announcing their authority and purpose.

(c) Forcible entry shall be attained only after a court order has been obtained, unless there is probable cause
to believe that the delay incident of such an order would
cause an aged or disabled person to incur a substantial risk
of life-threatening physical harm.

(d) When, from the personal observation of a
representative of the department and a law enforcement
officer, it appears probable that an aged or disabled person
is likely to incur a substantial risk of life-threatening
physical harm or deterioration of not immediately removed from
the premises, the department's representative may, when
authorized by a court order, take into custody and transport,
or make arrangements for the transportation and payment
thereof, the individual to an appropriate medical or
protective services facility.

(e) When action is taken under this section, a
preliminary hearing shall be held within 48 hours of the
signing of the court order, excluding Saturdays, Sundays, and
legal holidays, to establish probable cause for grounds for
protective placement.

(f) Upon a finding of probable cause, the court may
order temporary placement for up to 4 days, pending the
hearing for a need for continuing services.

(9) COOPERATION WITH LAW ENFORCEMENT AND OTHER
AGENCIES.--

(a) All state, county, and municipal law enforcement
and public agencies have a duty to cooperate with the
department and its employees, transmit reports of abuse,
neglect, and exploitation to the department, and protect and
enhance the welfare of aged or disabled persons who are
potentially subject to abuse, neglect, or exploitation
detected by a report made pursuant to this section.

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(b) Any funds appropriated by counties for home health care or boarding home, foster home, or nursing home services may be matched by state and federal funds; such funds shall be utilized by the Department of Health and Rehabilitative Services for the benefit of aged or disabled persons in said counties.

(c) The Department of Health and Rehabilitative Services may purchase services from any public or private institution, or institution or agency within the state which meets the standards and rules prescribed by the department for the proper care and supervision of abused, neglected, or exploited persons.

(d) Every facility serving aged or disabled persons shall inform residents of their rights to report abusive, neglectful, or exploitative practices and shall establish appropriate policies and procedures to facilitate such reporting.

10) CONFIDENTIALITY OF REPORTS AND RECORDS.--

(a) In order to protect the rights of the individual or other persons responsible for the welfare of the aged or disabled person, all records concerning reports of abuse, neglect, or exploitation of the aged or disabled person, including reports made to the abuse registry and to local offices of the department and all records generated as a result of such reports, shall be confidential and exempt from the provisions of s. 119.07(1), and shall not be disclosed except as specifically authorized by this section.

(b) Access to such records, excluding the name of the person making the report, which shall be released only as provided in paragraph (d), shall be granted only to the

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following persons, officials, and agencies for the following purposes:

1. Employees or agents of the department responsible for carrying out protective investigations, ongoing protective services, or licensure or approval of nursing homes, adult congregate living facilities, adult day care centers or other facilities, used for the placement of aged or disabled persons.

2. A law enforcement agency investigating a report of known or suspected abuse, neglect, or exploitation.

3. The state attorney of the judicial circuit in which the aged or disabled individual resides or in which the alleged abuse, neglect, or exploitation occurred.

4. Any aged or disabled person or perpetrator who is the subject of a report or the subject's guardian, custodian, guardian ad litem, or counsel.

5. A court, by subpoena, upon its finding that access to such records may be necessary for the determination of an issue before the court; however, such access shall be limited to in camera inspection, unless the court determines that public disclosure of the information contained therein is necessary for the resolution of an issue then pending before it.

6. A grand jury, by subpoena, upon its determination that access to such records is necessary in the conduct of its official business.

7. Any appropriate official of the department responsible for:

   a. Administration or supervision of the department's program for the prevention, investigation, or treatment of
abuse, neglect, or exploitation when carrying out his official function; or

b. Taking appropriate administrative action concerning an employee of the department alleged to have perpetrated institutional abuse, neglect, or exploitation.

8. Any person engaged in bona fide research or audit purposes. However, no information identifying the subjects of the report shall be made available to the researcher unless such information is absolutely essential to the research purpose, suitable provision is made to maintain the confidentiality of the data, and the department has given written approval.

(c) The department may release to professional persons such information as is necessary for the diagnosis and treatment of the victim or the person perpetrating the abuse.

(d) The name of any person reporting abuse, neglect, or exploitation shall in no case be released to any person other than employees of the department responsible for protective services, the abuse registry, or the appropriate state attorney without the written consent of the person reporting abuse, neglect, or exploitation when deemed necessary by the state attorney or the department to protect an aged or disabled person who is the subject of a report, provided that the fact that such person made the report is not disclosed. The department shall, upon receipt of an application of a person applying for approval or licensure of a facility to care for the aged or disabled persons, whether such care is for less than or more than 24 hours, search its abuse registry for the existence of an indicated report and the results of the adult protective assessment conducted pursuant thereto.

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(11) TRANSMITTAL OF RECORDS.--With respect to any case of reported abuse of an aged or disabled person, the department, when appropriate, shall transmit all reports received by it, which shall contain the results of the investigation, to the state attorney of the county where the incident occurred.

(12) IMMUNITY.--Anyone participating in the making of a report pursuant to this section or participating in a judicial proceeding resulting therefrom shall be presumed prima facie to be acting in good faith and in so doing shall be immune from any liability, civil or criminal, that otherwise might be incurred or imposed. Further, no resident or employee of a facility serving aged or disabled persons shall be subjected to reprisal or discharge because of his actions in reporting abuse pursuant to the requirements of this section.

(13) ABROGATION OF PRIVILEGED COMMUNICATIONS.--The privileged quality of communication between husband and wife and between any professional person and his patient or client, and any other privileged communication except that between attorney and client, as such communication relates to both the competency of the witness and to the exclusion of confidential communications, shall not apply to any situation involving known or suspected abuse, neglect, or exploitation and shall not constitute grounds for failure to report as required by this section, failure to cooperate with the department in its activities pursuant to this section, or failure to give evidence in any judicial proceeding relating to abuse, neglect, or exploitation of an aged or disabled person.

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RULES TO BE PROMULGATED.--The Department of Health and Rehabilitative Services shall promulgate rules for the implementation of this section.

PENALTIES.--

(a) Any person required by this section to report a case of known or suspected abuse, neglect, or exploitation of an aged or disabled person who knowingly and willfully fails to do so, or who knowingly and willfully prevents another person from doing so, is guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(b) Any person who knowingly and willfully makes public or discloses any confidential information contained in the abuse registry or in the records of any case of abuse, neglect, or exploitation except as provided in this section, is guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082, s. 775.083, or 775.084.

(c) Any person who knowingly or willfully abuses, neglects or exploits an aged or disabled person and, in so doing, causes great bodily harm, permanent disfigurement, or permanent disability to such person is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(d) Any person who knowingly or willfully abuses, neglects, or exploits an aged or disabled person is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 2. Sections 410.10-410.11, Florida Statutes, are hereby repealed.

Section 3. This act shall take effect October 1, 1983.
LEGISLATIVE SUMMARY

With respect to the protection of abused, aged, and disabled persons, expands the list of persons required to report abuse, neglect, or exploitation of such persons and provides a time limit for reports. Provides for mandatory reporting of death and postmortem investigation by the medical examiner. Provides that the Department of Health and Rehabilitative Services shall investigate each report of institutional abuse.

Provides for involuntary provision of services pursuant to court order and provides for cooperation of all law enforcement and other agencies with the department.

Provides for confidentiality of all reports and records and provides access to such records for specified persons under certain conditions.

Provides that the department shall promulgate rules.

Provides penalties for specified violations. Repeals ss. 410.10-410.11, F.S., relating to the "Adult Protective Services Act."
SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

I. SUMMARY:

A. Present Situation:

Currently, provisions relating to the protection of aged persons from abuse or other maltreatment are found in two sections of statute with some conflicts between the two. The Adult Protective Services Act (ss. 410.10-410.11, F.S.) pertains to the delivery of protective services to individuals suffering from the infirmities of aging, while s. 827.09, Florida Statutes, deals with the reporting of abuse or other maltreatment of both disabled persons and persons suffering from the infirmities of aging.

B. Effect of Proposed Changes:

Senate Bill 998 combines the provisions of ss. 410.10 and 827.09, Florida Statutes, into a single section, making the provisions compatible and providing a clearer approach to both the mandatory reporting requirements and the delivery of protective services to both the disabled and aged population.

The bill expands the suspected conditions which must be reported to the abuse registry to include exploitation which is defined as an unjust or improper use of another person for one’s own profit or advantage. It also provides for the mandatory reporting of death and investigation by the medical examiner and for the Department of Health and Rehabilitative Services to investigate institutional abuse and report such abuse to the state attorney.

II. ECONOMIC IMPACT AND FISCAL NOTE:

A. Public:

None.

B. Government:

None.

III. COMMENTS:

None.

IV. AMENDMENTS:
A bill to be entitled
An act relating to the Department of Health and
Rehabilitative Services, amending s. 827.09,
Florida Statutes, relating to protection of
abused, aged, and disabled persons; requiring
certain reports and authorizing the department
to take certain action with respect thereto;
providing for certain confidentiality,
providing penalties; amending s. 410.035,
Florida Statutes, relating to subsidy payments;
providing for development of a schedule of
subsidy payments by October 1, 1983, deleting
minimum and maximum limits thereon; repealing
ss. 410.10-410.11, Florida Statutes, relating
to the "Adult Protective Services Act;"
providing an effective date.

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

Section 1. Section 827.09, Florida Statutes, is
amended to read.

(Substantial rewording of section. See
s. 827.09, F.S., for present text.)

827.09 Abuse, neglect, or exploitation of aged or
disabled persons.--

(1) LEGISLATIVE INTENT.--The Legislature recognizes
that there are many persons in this state who, because of age
or disability, are in need of protective services. Such
services should allow the individual the same rights as other
citizens, and at the same time protect the individual from
abuse, neglect, and exploitation. It is the intent of the

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Legislature to provide for the detection and correction of
abuse, neglect, and exploitation and to establish a program of
protective and supportive services for all persons in need of
them. It is intended that the mandatory reporting of such
cases will cause the protective services of the state to be
brought to bear in an effort to prevent further abuse,
neglect, and exploitation. In doing so, the Legislature
intends to place the least possible restrictions on personal
liberty and the exercise of constitutional rights, consistent
with due process and protection from abuse, neglect, and
exploitation.

(2) DEFINITIONS.--As used in this section:
(a) "Abuse" means treatment under which an aged or
disabled person is deprived, or allowed to be deprived, of
necessary treatment, habilitation, care, sustenance, clothing,
shelter, supervision, or medical services essential to his
well-being; or is permitted to live in an environment, when
such deprivation or environment causes, or is likely to cause
impairment of physical or emotional health; or is subject to
physical or psychological injury
(b) "Abused person" means any aged or disabled person
who has been subjected to abuse or whose condition suggests
that he has been abused.
(c) "Aged person" means a person suffering from the
infirmities of aging as manifested by organic brain damage,
advanced age, or other physical, mental, or emotional
dysfunctioning to the extent that the person is impaired in
his ability to adequately provide for his own care or
protection.
(d) "Department" means the Department of Health and
Rehabilitative Services.
(e) "Disabled person" means any person who suffers from a condition of mental retardation, epilepsy, cerebral palsy, mental illness, or other disability which causes the person to be substantially unable to protect himself from the abusive conduct of others.

(f) "Exploitation" means an unjust or improper use of another person for one's own profit or advantage.

(g) "Facility" means any public or private hospital, training center, clinic, school, or other program or service for aged or disabled persons.

(h) "Indicated report" means a report made pursuant to this section when a protective investigation determines that some indication of abuse, neglect, or exploitation exists.

(i) "Neglect" means to omit, forbear, or fail to exercise a degree of care and caution that a prudent person would deem essential to insure the well-being of an aged or disabled person and, by such omission, forbearance, or failure, significantly impair or jeopardize the physical or emotional health of the aged or disabled person.

(j) "Protective services" means those services, the objective of which is to protect an aged or disabled person. Such protective services shall include, but shall not be limited to, evaluation of the need for services, arrangements for appropriate living quarters, obtaining financial benefits to which the person is entitled, or securing medical and legal services. In those situations where exploitation, prevention of injury, and protection of the person and his property are at issue, protective services shall include seeking the appointment of a guardian for the person or seeking protective placement.
(k) "Unfounded report" means a report made pursuant to this section when a protective investigation determines that no indication of abuse, neglect, or exploitation exists.

(3) REPORTS OF ABUSE, NEGLECT, OR EXPLOITATION OF AGED OR DISABLED PERSONS REQUIRED.--

(a) Any person, including, but not limited to, any:
1. Physician, osteopath, medical examiner, chiropractor, nurse, or hospital personnel engaged in the admission, examination, care, or treatment of persons.
2. Health or mental health professional other than one listed in subparagraph 1.
3. Practitioner who relies solely on spiritual means for healing.
4. Nursing home worker, adult congregate living facility worker, adult day care center worker, social worker, or other professional adult care, foster care, residential or institutional worker.
5 Law enforcement officer.

who knows, or has reasonable cause to suspect, that an aged or disabled person is an abused, neglected, or exploited person shall immediately report such knowledge or suspicion to the department’s abuse registry on the single statewide tollfree telephone number or directly to the local office of the department responsible for investigation of reports made pursuant to this section.

(b) Each report made by a person in an occupation designated in paragraph (a) shall be confirmed in writing by the individual making the report to the local office of the department within 48 hours of the initial report.

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(c) Reports involving known or suspected institutional abuse, neglect, or exploitation shall be made and received in the same manner as all other reports made pursuant to this section.

(d) The statewide tollfree telephone number for the central abuse registry shall be posted in all facilities operated by or under contract with or licensed by the department which provide services to aged or disabled persons. Such posting shall be clearly visible and in a prominent place within the facility and shall be accompanied by the words, "To Report the Abuse, Neglect, or Exploitation of an Elderly or Disabled Person, Please call the Tollfree Number."

(4) MANDATORY REPORTING OF DEATH AND POST MORTEM INVESTIGATION BY MEDICAL EXAMINER.--Any person required to report or investigate cases of suspected abuse, neglect, or exploitation who has reasonable cause to suspect that an aged or disabled person died as a result of abuse, neglect, or exploitation, shall report his suspicion to the appropriate medical examiner. The medical examiner shall accept the report for investigation pursuant to s 406.11 and shall report his findings, in writing, to the local law enforcement agency, the appropriate state attorney, and the department. Autopsy reports maintained by the medical examiner shall not be subject to the confidentiality requirements provided for in this section.

(5) REPORTS OF INSTITUTIONAL ABUSE, NEGLECT, OR EXPLOITATION.--The department shall conduct a protective investigation of each report of institutional abuse, neglect, or exploitation. Upon receipt of a report which alleges that an employee or agent of the department acting in an official capacity, has committed an act of abuse, neglect, or...
exploitation, the department shall immediately initiate a
protective investigation and shall notify the state attorney
in whose circuit the alleged abuse, neglect, or exploitation
occurred.

(6) ABUSE REGISTRY.--

(a) The department shall establish and maintain a
central abuse registry which shall receive reports made
pursuant to this section in writing or through a single
statewide tollfree telephone number which any person may use
to report known or suspected abuse, neglect, or exploitation
at any hour of the day or night, any day of the week. The
abuse registry shall be operated in such a manner as to enable
the department to:

1. Immediately identify and locate prior reports or
cases of abuse, neglect, or exploitation.
2. Regularly evaluate the effectiveness of the
department's program for abused, neglected, or exploited
persons through the development and analysis of statistical
and other information.

(b) Upon receiving an oral or written report of known
or suspected abuse, neglect, or exploitation, the abuse
registry shall immediately notify the local office of the
department with respect to the report, any previous report
concerning a subject of the present report, or any other
pertinent information relative thereto.

(c) Upon completion of its investigation, the local
office of the department shall classify reports either as
indicated or unfounded. All identifying information in the
abuse registry maintained in unfounded reports shall be
expunged immediately. All identifying information in the
abuse registry maintained in indicated reports shall be

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expunged from the registry 7 years from the date of the last indicated report concerning the same victim or the same perpetrator. All information, other than identifying information, maintained in indicated or unfounded reports at the time of expunction shall be disposed of in a manner deemed appropriate by the department and pursuant to s. 119.041 and s. 267.051(6). Nothing in this section is intended to require the expunction or destruction of case records or information required by the Federal Government to be retained for future audit.

(7) PROTECTIVE INVESTIGATIONS.--

(a) The department shall, upon receipt of a report of abuse, neglect, or exploitation of an aged or disabled person, cause an immediate protective investigation to be made and shall in turn, upon determining probable cause, notify the state attorney. The department shall, within 24 hours of receipt of the report notify the appropriate human rights advocacy committee, as established pursuant to s 20.19(7), that an alleged abuse has occurred. Such notice may be accomplished verbally or in writing and shall include the name of the person alleged to have been abused and the nature of the report. The department shall provide protective services under any of the following conditions:

1. The person demonstrates a need for, and requests, such services.
2. An interested person requests such services on behalf of a person in need of services
3. The department determines a person is in need of such services.
4. A court orders such services.
(b) Voluntary services.--An individual shall receive protective services voluntarily unless ordered by the court, requested by a guardian, or provided in accordance with subsection (8).

(8) INVOLUNTARY PROVISION OF SERVICES.--

(a) Every reasonable effort shall be made to secure the consent and participation of the aged or disabled person in the assessment and resolution of his own need for protective services

(b) Upon probable cause to believe that an aged or disabled person is being abused, neglected, or exploited, a representative of the department, accompanied by a law enforcement officer may enter a premises after obtaining a court order and announcing their authority and purpose.

(c) Forcible entry shall be attained only after a court order has been obtained, unless there is probable cause to believe that the delay incident of such an order would cause an aged or disabled person to incur a substantial risk of life-threatening physical harm.

(d) When, from the personal observation of a representative of the department and a law enforcement officer, it appears probable that an aged or disabled person is likely to incur a substantial risk of life-threatening physical harm or deterioration if not immediately removed from the premises, the department's representative may, when authorized by a court order, take into custody and transport, or make arrangements for the transportation and payment thereof, the individual to an appropriate medical or protective services facility.

(e) When action is taken under this section, a preliminary hearing shall be held within 48 hours of the
signing of the court order, excluding Saturdays, Sundays, and legal holidays, to establish probable cause for grounds for protective placement.

(f) Upon a finding of probable cause, the court may order temporary placement for up to 4 days, pending the hearing for a need for continuing services.

(9) COOPERATION WITH LAW ENFORCEMENT AND OTHER AGENCIES.--

(a) All state, county, and municipal law enforcement and public agencies have a duty to cooperate with the department and its employees, transmit reports of abuse, neglect, and exploitation to the department, and protect and enhance the welfare of aged or disabled persons who are potentially subject to abuse, neglect, or exploitation detected by a report made pursuant to this section.

(b) Any funds appropriated by counties for home health care or boarding home, foster home, or nursing home services may be matched by state and federal funds, such funds shall be utilized by the Department of Health and Rehabilitative Services for the benefit of aged or disabled persons in said counties.

(c) The Department of Health and Rehabilitative Services may purchase services from any public or private institution, or institution or agency within the state which meets the standards and rules prescribed by the department for the proper care and supervision of abused, neglected, or exploited persons.

(d) Every facility serving aged or disabled persons shall inform residents of their rights to report abusive, neglectful, or exploitive practices and shall establish
appropriate policies and procedures to facilitate such reporting.

(10) CONFIDENTIALITY OF REPORTS AND RECORDS.--

(a) In order to protect the rights of the individual or other persons responsible for the welfare of the aged or disabled person, all records concerning reports of abuse, neglect, or exploitation of the aged or disabled person, including reports made to the abuse registry and to local offices of the department and all records generated as a result of such reports, shall be confidential and exempt from the provisions of s. 119.07(1), and shall not be disclosed except as specifically authorized by this section.

(b) Access to such records, excluding the name of the person making the report, which shall be released only as provided in paragraph (d), shall be granted only to the following persons, officials, and agencies for the following purposes.

1. Employees or agents of the department responsible for carrying out protective investigations, ongoing protective services, or licensure or approval of nursing homes, adult congregate living facilities, adult day care centers or other facilities, used for the placement of aged or disabled persons.

2. A law enforcement agency investigating a report of known or suspected abuse, neglect, or exploitation.

3. The state attorney of the judicial circuit in which the aged or disabled individual resides or in which the alleged abuse, neglect, or exploitation occurred.

4. Any aged or disabled person or perpetrator who is the subject of a report or the subject's guardian, custodian, guardian ad litem, or counsel.
5. A court, by subpoena, upon its finding that access to such records may be necessary for the determination of an issue before the court, however, such access shall be limited to in camera inspection, unless the court determines that public disclosure of the information contained therein is necessary for the resolution of an issue then pending before it.

6. A grand jury, by subpoena, upon its determination that access to such records is necessary in the conduct of its official business.

7. Any appropriate official of the department responsible for:
   a. Administration or supervision of the department's program for the prevention, investigation, or treatment of abuse, neglect, or exploitation when carrying out his official function; or
   b. Taking appropriate administrative action concerning an employee of the department alleged to have perpetrated institutional abuse, neglect, or exploitation

8. Any person engaged in bona fide research or audit purposes. However, no information identifying the subjects of the report shall be made available to the researcher unless such information is absolutely essential to the research purpose, suitable provision is made to maintain the confidentiality of the data, and the department has given written approval.

   (c) The department may release to professional persons such information as is necessary for the diagnosis and treatment of the victim or the person perpetrating the abuse.

   (d) The name of any person reporting abuse, neglect, or exploitation shall in no case be released to any person...
other than employees of the department responsible for
protective services, the abuse registry, or the appropriate
state attorney without the written consent of the person
reporting abuse, neglect, or exploitation when deemed
necessary by the state attorney or the department to protect
an aged or disabled person who is the subject of a report,
provided that the fact that such person made the report is not
disclosed. The department shall, upon receipt of an
application of a person applying for approval or licensure of
a facility to care for the aged or disabled persons, whether
such care is for less than or more than 24 hours, search its
abuse registry for the existence of an indicated report and
the results of the adult protective assessment conducted
pursuant thereto.

(11) TRANSMITTAL OF RECORDS.--With respect to any case
of reported abuse of an aged or disabled person, the
department, when appropriate, shall transmit all reports
received by it, which shall contain the results of the
investigation, to the state attorney of the county where the
incident occurred.

(12) IMMUNITY.--Anyone participating in the making of
a report pursuant to this section or participating in a
judicial proceeding resulting therefrom shall be presumed
prima facie to be acting in good faith and in so doing shall
be immune from any liability, civil or criminal, that
otherwise might be incurred or imposed. Further, no resident
or employee of a facility serving aged or disabled persons
shall be subjected to reprisal or discharge because of his
actions in reporting abuse pursuant to the requirements of
this section.

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(13) ABROGATION OF PRIVILEGED COMMUNICATIONS --The privileged quality of communication between husband and wife and between any professional person and his patient or client, and any other privileged communication except that between attorney and client, as such communication relates to both the competency of the witness and to the exclusion of confidential communications, shall not apply to any situation involving known or suspected abuse, neglect, or exploitation and shall not constitute grounds for failure to report as required by this section, failure to cooperate with the department in its activities pursuant to this section, or failure to give evidence in any judicial proceeding relating to abuse, neglect, or exploitation of an aged or disabled person.

(14) RULES TO BE PROMULGATED --The Department of Health and Rehabilitative Services shall promulgate rules for the implementation of this section.

(15) PENALTIES.--

(a) Any person required by this section to report a case of known or suspected abuse, neglect, or exploitation of an aged or disabled person who knowingly and willfully fails to do so, or who knowingly and willfully prevents another person from doing so, is guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(b) Any person who knowingly and willfully makes public or discloses any confidential information contained in the abuse registry or in the records of any case of abuse, neglect, or exploitation except as provided in this section, is guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082, s. 775.083, or 775.084.
(c) Any person who knowingly or willfully abuses, neglects or exploits an aged or disabled person and, in so doing, causes great bodily harm, permanent disfigurement, or permanent disability to such person is guilty of a felony of the third degree, punishable as provided in s. 775.082, s 775.083, or s. 775.084.

(d) Any person who knowingly or willfully abuses, neglects, or exploits an aged or disabled person is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082, s. 775 083, or s 775 084

Section 2. Section 410.035, Florida Statutes, is amended to read:

410.035 Subsidy payments --

(1) The department shall develop by October 1, 1983, establish by rule by January 1, 1978, a schedule of subsidy payments to be made to persons providing home care for certain eligible elderly persons. Payments shall be no less than 10 percent of the prevailing rate paid by the department for the lowest level of nursing home care under s. 499.266, and no greater than 45 percent of said amount. Payments shall be based on the financial status of the person receiving care. Payments shall include, but not be limited to:

(a) A support and maintenance element, to include costs of housing, food, clothing, and incidentals.

(b) Payments for medical, pharmaceutical, and dental services essential to maintain the health of the elderly person and not covered by Medicare, Medicaid, or any form of insurance.

(c) When necessary, special supplements to provide for any service and specialized care required to maintain the health and well-being of the elderly person.
(2) The department shall develop a plan for the implementation of the schedule of a program of uniform subsidy payments to persons providing home care for the elderly.

Section 3. Sections 410.10-410.11, Florida Statutes, are hereby repealed.

Section 4. This act shall take effect July 1, 1983.
I. SUMMARY:

A. Present Situation:

Currently, provisions relating to the protection of aged persons from abuse or other maltreatment are found in two sections of statute with some conflicts between the two. The Adult Protective Services Act (ss. 410.10-410.11, F.S.) pertains to the delivery of protective services to individuals suffering from the infirmities of aging, while s. 827.09, Florida Statutes, deals with the reporting of abuse or other maltreatment of both disabled persons and persons suffering from the infirmities of aging.

Sections 410.031 through 410.036, F.S., provide the statutory authority for the Home Care for the Elderly (HCE) program which, according to legislative intent, is designed to "encourage the provision of care for the elderly in family-type living arrangements in private homes as an alternative to institutional or nursing home care for such persons". All home care recipients at least meet the Medicaid requirements for the lowest level of nursing home care and, according to a 1982 study, the average HCE recipient is an 83 year old widowed female who has been living with a son or daughter for 10 years or longer and is severely or totally impaired.

Section 410.035, F.S., specifies that subsidies paid to providers of home care are to be established in rule and are to be no less than 10 percent nor more than 45 percent of the prevailing rate paid by the Department of Health and Rehabilitative Services (HRS) for the lowest level of nursing home care. This section also specifies that payments are to be based on the financial status of the person receiving care. In Fiscal Year 1982-83, with an appropriation of $3.14 million, 2,652 recipients received care under this program which is an estimated 3.44 percent of the target population. According to the department's statistics, the average HCE recipient cost in 1982 was $134.70 per month compared to the prevailing rate paid by HRS for the lowest level of nursing home care of $853.

The April 1, 1983, implementation of the Title XIX nursing home reimbursement plan (Gainesville Plan) makes obsolete the reference in s. 410.035, F.S., to the prevailing rate paid by the department for the lowest level of care. The department now pays a single rate regardless of a resident's level of care. Continuing to tie the HCE reimbursement rate to the nursing home reimbursement rate could result in a cut in the number of HCE recipients receiving a subsidy, unless that program receives an increased appropriation equivalent to that received for nursing home reimbursement under the Gainesville...
B. Effect of Proposed Changes:

Senate Bill 998 combines the provisions of ss. 410.10 and 827.09, Florida Statutes, into a single section, making the provisions compatible and providing a clearer approach to both the mandatory reporting requirements and the delivery of protective services to both the disabled and aged population.

The bill expands the suspected conditions which must be reported to the abuse registry to include exploitation which is defined as an unjust or improper use of another person for one's own profit or advantage. It also provides for the mandatory reporting of death and investigation by the medical examiner and for the Department of Health and Rehabilitative Services to investigate institutional abuse and report such abuse to the state attorney. The definition of abuse is expanded to include acts of commission.

The proposed bill deletes the requirement that the subsidy schedule be established in rule, directs the department to develop a subsidy schedule by October 1, 1983, and deletes the requirement that payments fall between 10 percent and 45 percent of the prevailing rate paid by the department for the lowest level of nursing home care. The schedule developed by the department would need to be based on the legislative appropriation for HCE and the number and financial status of clients to receive subsidies.

II. ECONOMIC IMPACT AND FISCAL NOTE:

A. Public:

None.

B. Government:

With the removal of the language tying the HCE subsidy to the prevailing nursing home rate, providers of home care services could receive a different subsidy than they are now receiving. Whether their subsidy increases or decreases would depend on the funds appropriated by the Legislature and the schedule developed by the department.

III. COMMENTS:

None.

IV. AMENDMENTS:

The provisions of CS for SB 998 passed the Legislature as SB 124.
I. SUBJECT (Brief Description of Bill):

SB 998 substantially amends Section 827.09, F.S., to include definitions, list of persons required to report, mandatory reporting of death and postmortem investigation institutional abuse, neglect, or exploitation process establishment of abuse registry, protective investigation process, involuntary provision of services process, cooperation with law enforcement and other agencies, confidentiality of reports, records and penalties.

II. SUMMARY:

A. Present Situation:

At present, Section 410.10 pertains only to the delivery of protective services to individuals suffering from the infirmities of aging, while Section 827.09 mandates the reporting of abuse, neglect or exploitation of both disabled adults and those suffering from the infirmities of aging. Section 410.10 was designed for the delivery of protective services, whereas, Section 827.09 was the mandatory reporting law. Currently, these two statutes are not compatible. Also, current statutory language does not require timely responses from the State Attorney upon receipt of an abuse referral. By moving elements from Section 410.10 to Section 827.09, it will provide a more complete and clearer approach to both the mandatory reporting and delivery of protective services to both the disabled and aged population.

B. Effect of Proposed Changes Upon DHS Programs or Operations:

SB 998 will consolidate the current two laws into a single "Adult Protective Services Act", thereby eliminating the confusion and incompatibility. Also, it will allow the State of Florida to better protect its disabled and elderly population by making it a crime to abuse, neglect, or exploit this population group. Implementation of these amendments, in most cases (See Section III comments), should improve the Adult Protective Services efforts, as the statute will provide more leeway for the use of emergency services. Disabled clients will benefit from this provision, as staff could proceed with emergency removals for this population group, as appropriate.
III. COMMENTS (Potential Programmatic Problems, Barriers to Implementation, Legal Issues):

SB 998 is a companion bill to HB 644. Due to the short response time on HB 644, we offer the following comments:

1. The proposed amendments do not include concise procedures for petitioning of the courts in instances where emergency removals are necessary. Since much confusion has existed in this area under the current Adult Protective Services guidelines, more detailed language would assist in statewide, uniform implementation of the emergency protective services program.

2. Definitions: The definition of abuse appears to be lacking in that no reference is made to "physical or psychological injury inflicted other than by accidental means." Since the majority of the cases covered by the statute have the potential for court action, extreme caution should be used in limiting the definition of abuse to instances of deprivation.

3. Section 5: HB 644 has provisions requiring the State Attorney to investigate within 15 days; upon receipt of an abuse referral. We recommend similar language in SB 998.

4. Section 7: The proposed amendment provides that HRS investigate each incident of institutional abuse. Yet, the language for protective investigations outside institutional settings appears weaker. We recommend wording similar to that regarding institutional abuse in Section 5.

5. Section 9: We recommend removal of paragraph B, as it would probably be more appropriately addressed under the Optional State Supplementation (OSS) statutory reference.

6. Section 10: Since confidentiality questions frequently occur in relationship to HRACs and LTCOCs, it would appear that statutory reference in this section could resolve these questions.

IV. SUGGESTED CHANGES IN BILL:

1. Include more detailed language concerning court petitions, court ordered placements and the Department role under court ordered protective services.

2. Expand definition of abuse to include "physical or psychological injury inflicted other than by accidental means" or .... (continue as written in proposed bill).

3. Add the word "each" in paragraph (7)(a) before "report of abuse, neglect, or exploitation," in order to strengthen non-institutional investigations.

4. Delete section (8) paragraph (c) entirely, or reword to reference emergency services. If this is a generic reference for programs for the elderly and disabled, then perhaps it would be more appropriately referenced in OSS, HCE, CCE, or other legislation.

5. Reference release of information to HRACs and LTCOCs in section 10 in order to resolve confidentiality issue.

V. FISCAL SUMMARY (See Attached Fiscal Note for Details):

A. Personnel: N/A Positions

B. Cost to Administer: $ N/A (Annual)

C. In Department's Legislative Budget Request? X YES NO

D. In Governor's Recommended Budget? X YES NO
I. Agency requirements to administer the bill’s provisions (categorize as cost of additional personnel, operating cost outlay, and other additional costs):

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount Year 1</th>
<th>Amount Year 2</th>
<th>Amount Year 3</th>
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<tbody>
<tr>
<td>N/A</td>
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</table>

*Include all start-up effects as well as recurring expenses.

II. Appropriations Consequences/Source of Funds:

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount Year 1</th>
<th>Amount Year 2</th>
<th>Amount Year 3</th>
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<tbody>
<tr>
<td>N/A</td>
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</table>

III. Amount and Disposition of any anticipated revenue collections:

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount Year 1</th>
<th>Amount Year 2</th>
<th>Amount Year 3</th>
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<tbody>
<tr>
<td>N/A</td>
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IV. Long run effects other than normal growth:

N/A

V. Fiscal Impact on other governmental agencies (specify amount, source of funding, quantify):

A. Federal  None

B. State     None

C. Local     None

VI. Impact on the Public (direct cost to the public):

None
A bill to be entitled
An act relating to the Department of Health and
Rehabilitative Services; amending s. 827.09,
Florida Statutes, relating to protection of
abused, aged, and disabled persons; requiring
certain reports and authorizing the department
to take certain action with respect thereto;
providing for certain confidentiality;
providing penalties; providing an effective
date.

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

Section 1. Section 827.09, Florida Statutes, is
amended to read:

(Substantial rewording of section. See
s. 827.09, F.S., for present text.)

827.09 Abuse, neglect, or exploitation of aged or
disabled persons.---

1) LEGISLATIVE INTENT.---The Legislature recognizes
that there are many persons in this state who, because of age
or disability, are in need of protective services. Such
services should allow the individual the same rights as other
citizens, and at the same time protect the individual from
abuse, neglect, and exploitation. It is the intent of the
Legislature to provide for the detection and correction of
abuse, neglect, and exploitation and to establish a program of
protective and supportive services for all persons in need of
them. It is intended that the mandatory reporting of such
cases will cause the protective services of the state to be
brought to bear in an effort to prevent further abuse,
neglect, and exploitation. In doing so, the Legislature intends to place the least possible restrictions on personal liberty and the exercise of constitutional rights, consistent with due process and protection from abuse, neglect, and exploitation.

(2) DEFINITIONS.—As used in this section:

(a) "Abuse" means treatment under which an aged or disabled person is deprived, or allowed to be deprived, of necessary treatment, habilitation, care, sustenance, clothing, shelter, supervision, or medical services essential to his well-being, or is permitted to live in an environment, when such deprivation or environment causes, or is likely to cause impairment of physical or emotional health.

(b) "Abused person" means any aged or disabled person who has been subjected to abuse or whose condition suggests that he has been abused.

(c) "Aged person" means a person suffering from the infirmities of aging as manifested by organic brain damage, advanced age, or other physical, mental, or emotional dysfunctioning to the extent that the person is impaired in his ability to adequately provide for his own care or protection.

(d) "Department" means the Department of Health and Rehabilitative Services.

(e) "Disabled person" means any person who suffers from a condition of mental retardation, epilepsy, cerebral palsy, mental illness, or other disability which causes the person to be substantially unable to protect himself from the abusive conduct of others.

(f) "Exploitation" means an unjust or improper use of another person for one's own profit or advantage.
(g) "Facility" means any public or private hospital, training center, clinic, school, or other program or service for aged or disabled persons.

(h) "Indicated report" means a report made pursuant to this section when a protective investigation determines that some indication of abuse, neglect, or exploitation exists.

(i) "Neglect" means to omit, forbear, or fail to exercise a degree of care and caution that a prudent person would deem essential to insure the well-being of an aged or disabled person and, by such omission, forbearance, or failure, significantly impair or jeopardize the physical or emotional health of the aged or disabled person.

(j) "Protective services" means those services, the objective of which is to protect an aged or disabled person. Such protective services shall include, but shall not be limited to, evaluation of the need for services, arrangements for appropriate living quarters, obtaining financial benefits to which the person is entitled, or securing medical and legal services. In those situations where exploitation, prevention of injury, and protection of the person and his property are at issue, protective services shall include seeking the appointment of a guardian for the person or seeking protective placement.

(k) "Unfounded report" means a report made pursuant to this section when a protective investigation determines that no indication of abuse, neglect, or exploitation exists.

(3) REPORTS OF ABUSE, NEGLECT, OR EXPLOITATION OF AGED OR DISABLED PERSONS REQUIRED.:

(a) Any person, including, but not limited to, any:
1. Physician, osteopath, medical examiner, chiropractor, nurse, or hospital personnel engaged in the admission, examination, care, or treatment of persons.

2. Health or mental health professional other than one listed in subparagraph 1.

3. Practitioner who relies solely on spiritual means for healing.

4. Nursing home worker, adult congregate living facility worker, adult day care center worker, social worker, or other professional adult care, foster care, residential or institutional worker.

5. Law enforcement officer.

who knows, or has reasonable cause to suspect, that an aged or disabled person is an abused, neglected, or exploited person shall immediately report such knowledge or suspicion to the department's abuse registry on the single statewide tollfree telephone number or directly to the local office of the department responsible for investigation of reports made pursuant to this section.

(b) Each report made by a person in an occupation designated in paragraph (a) shall be confirmed in writing by the individual making the report to the local office of the department within 48 hours of the initial report.

(c) Reports involving known or suspected institutional abuse, neglect, or exploitation shall be made and received in the same manner as all other reports made pursuant to this section.

(f) MANDATORY REPORTING OF DEATH AND POSTMORTEM INVESTIGATION BY MEDICAL EXAMINER—Any person required to report or investigate cases of suspected abuse, neglect, or
exploitation who has reasonable cause to suspect that an aged or disabled person died as a result of abuse, neglect, or exploitation, shall report his suspicion to the appropriate medical examiner. The medical examiner shall accept the report for investigation pursuant to s. 406.11 and shall report his findings, in writing, to the local law enforcement agency, the appropriate state attorney, and the department. Autopsy reports maintained by the medical examiner shall not be subject to the confidentiality requirements provided for in this section.

(5) REPORTS OF INSTITUTIONAL ABUSE, NEGLECT, OR EXPLOITATION.--The department shall conduct a protective investigation of each report of institutional abuse, neglect, or exploitation. Upon receipt of a report which alleges that an employee or agent of the department acting in an official capacity, has committed an act of abuse, neglect, or exploitation, the department shall immediately initiate a protective investigation and shall notify the state attorney in whose circuit the alleged abuse, neglect, or exploitation occurred. The state attorney shall immediately investigate the report and, no later than 15 days after completing the investigation, shall report his findings to the department.

(6) ABUSE REGISTRY.--

(a) The department shall establish and maintain a central abuse registry which shall receive reports made pursuant to this section in writing or through a single statewide tollfree telephone number which any person may use to report known or suspected abuse, neglect, or exploitation at any hour of the day or night, any day of the week. The abuse registry shall be operated in such a manner as to enable the department to:

CODING Words in struck through type are deletions from existing law, words underlined are additions.
1. Immediately identify and locate prior reports or cases of abuse, neglect, or exploitation.
2. Regularly evaluate the effectiveness of the department’s program for abused, neglected, or exploited persons through the development and analysis of statistical and other information.

(b) Upon receiving an oral or written report of known or suspected abuse, neglect, or exploitation, the abuse registry shall immediately notify the local office of the department with respect to the report, any previous report concerning a subject of the present report, or any other pertinent information relative thereto.

(c) Upon completion of its investigation, the local office of the department shall classify reports either as indicated or unfounded. All identifying information in the abuse registry maintained in unfounded reports shall be expunged immediately. All identifying information in the abuse registry maintained in indicated reports shall be expunged from the registry 7 years from the date of the last indicated report concerning the same victim or the same perpetrator. All information, other than identifying information, maintained in indicated or unfounded reports at the time of expunction shall be disposed of in a manner deemed appropriate by the department and pursuant to s. 119.041 and s. 267.051(6). Nothing in this section is intended to require the expunction or destruction of case records or information required by the Federal Government to be retained for future audit.

(7) PROTECTIVE INVESTIGATIONS.--
(a) The department shall, upon receipt of a report of abuse, neglect, or exploitation of an aged or disabled person,
cause an immediate protective investigation to be made and shall in turn, upon determining probable cause, notify the state attorney. The state attorney shall immediately investigate the report and, no later than 15 days after completing the investigation, shall report his findings to the department. The department shall, within 24 hours of receipt of the report notify the appropriate human rights advocacy committee, as established pursuant to s. 20.19(7), that an alleged abuse has occurred. Such notice may be accomplished verbally or in writing and shall include the name of the person alleged to have been abused and the nature of the report. The department shall provide protective services under any of the following conditions:

1. The person demonstrates a need for, and requests, such services.

2. An interested person requests such services on behalf of a person in need of services.

3. The department determines a person is in need of such services.

4. A court orders such services.

(b) Voluntary services.--An individual shall receive protective services voluntarily unless ordered by the court, requested by a guardian, or provided in accordance with subsection (8).

(8) INVOLUNTARY PROVISION OF SERVICES.--

(a) Every reasonable effort shall be made to secure the consent and participation of the aged or disabled person in the assessment and resolution of his own need for protective services.

(b) Upon probable cause to believe that an aged or disabled person is being abused, neglected, or exploited, a
representative of the department, accompanied by a law
enforcement officer may enter a premise after obtaining a
court order and announcing their authority and purpose.

(a) Forcible entry shall be attained only after a
court order has been obtained, unless there is probable cause
to believe that the delay incident of such an order would
cause an aged or disabled person to incur a substantial risk
of life-threatening physical harm.

(b) When, from the personal observation of a
representative of the department and a law enforcement
officer, it appears probable that an aged or disabled person
is likely to incur a substantial risk of life-threatening
physical harm or deterioration if not immediately removed from
the premises, the department's representative may, when
authorized by a court order, take into custody and transport,
or make arrangements for the transportation and payment
thereof, the individual to an appropriate medical or
protective services facility.

(c) When action is taken under this section, a
preliminary hearing shall be held within 48 hours of the
signing of the court order, excluding Saturdays, Sundays, and
legal holidays, to establish probable cause for grounds for
protective placement.

(d) Upon a finding of probable cause, the court may
issue temporary placement for up to 4 days, pending the
hearing for a need for continuing services.

(9) COOPERATION WITH LAW ENFORCEMENT AND OTHER
AGENCIES.--

(a) All state, county, and municipal law enforcement
and public agencies have a duty to cooperate with the
department and its employees, transmit reports of abuse,
neglect, and exploitation to the department, and protect and 3.8
enhance the welfare of aged or disabled persons who are 3.9
potentially subject to abuse, neglect, or exploitation 3.10
detected by a report made pursuant to this section. 3.10
(b) Any funds appropriated by counties for home health 3.10
care or boarding home, foster home, or nursing home services 3.11
may be matched by state and federal funds; such funds shall be 3.12
utilized by the Department of Health and Rehabilitative 3.13
Services for the benefit of aged or disabled persons in said 3.13
counties.

(c) The Department of Health and Rehabilitative 3.14
Services may purchase services from any public or private 3.15
institution, or institution or agency within the state which 3.16
meets the standards and rules prescribed by the department for 3.17
the proper care and supervision of abused, neglected, or 3.17
exploited persons.

(d) Every facility serving aged or disabled persons 3.18
shall inform residents of their rights to report abusive, 3.19
neglectful, or exploitive practices and shall establish 3.20
appropriate policies and procedures to facilitate such 3.20
reporting.

(10) CONFIDENTIALITY OF REPORTS AND RECORDS.-- 3.21
(a) In order to protect the rights of the individual 3.22
or other persons responsible for the welfare of the aged or 3.23
disabled person, all records concerning reports of abuse, 3.23
neglect, or exploitation of the aged or disabled person, 3.24
including reports made to the abuse registry and to local 3.25
offices of the department and all records generated as a 3.25
result of such reports, shall be confidential and exempt from 3.26
the provisions of s. 119.07(1), and shall not be disclosed 3.27
except as specifically authorized by this section.
(b) Access to such records, excluding the name of the person making the report, which shall be released only as provided in paragraph (d), shall be granted only to the following persons, officials, and agencies for the following purposes:

1. Employees or agents of the department responsible for carrying out protective investigations, ongoing protective services, or licensure or approval of nursing homes, adult congregate living facilities, adult day care centers or other facilities, used for the placement of aged or disabled persons.

2. A law enforcement agency investigating a report of known or suspected abuse, neglect, or exploitation.

3. The state attorney of the judicial circuit in which the aged or disabled individual resides or in which the alleged abuse, neglect, or exploitation occurred.

4. Any aged or disabled person or perpetrator who is the subject of a report or the subject's guardian, custodian, guardian ad litem, or counsel.

5. A court, by subpoena, upon its finding that access to such records may be necessary for the determination of an issue before the court; however, such access shall be limited to in camera inspection, unless the court determines that public disclosure of the information contained therein is necessary for the resolution of an issue then pending before it.

6. A grand jury, by subpoena, upon its determination that access to such records is necessary in the conduct of its official business.

7. Any appropriate official of the department responsible for:

CODING. Words in struck through type are deletions from existing law, words underlined are additions.
a. Administration or supervision of the department’s program for the prevention, investigation, or treatment of abuse, neglect, or exploitation when carrying out his official function; or

b. Taking appropriate administrative action concerning an employee of the department alleged to have perpetrated institutional abuse, neglect, or exploitation.

8. Any person engaged in bona fide research or audit purposes. However, no information identifying the subjects of the report shall be made available to the researcher unless such information is absolutely essential to the research purpose, suitable provision is made to maintain the confidentiality of the data, and the department has given written approval.

(c) The department may release to professional persons such information as is necessary for the diagnosis and treatment of the victim or the person perpetrating the abuse.

(d) The name of any person reporting abuse, neglect, or exploitation shall in no case be released to any person other than employees of the department responsible for protective services, the abuse registry, or the appropriate state attorney without the written consent of the person reporting abuse, neglect, or exploitation when deemed necessary by the state attorney or the department to protect an aged or disabled person who is the subject of a report, provided that the fact that such person made the report is not disclosed. The department shall, upon receipt of an application of a person applying for approval or licensure of a facility to care for the aged or disabled persons, whether such care is for less than or more than 24 hours, search its abuse registry for the existence of an indicated report and

CODING Words in search through type are deletions from existing law, words underlined are additions
the results of the adult protective assessment conducted

Pursuant to this section.

(11) TRANSMITTAL OF RECORDS.—With respect to any case of reported abuse of an aged or disabled person, the department, when appropriate, shall transmit all reports received by it, which shall contain the results of the investigation, to the state attorney of the county where the incident occurred.

(12) IMMUNITY.—Anyone participating in the making of a report pursuant to this section or participating in a verbal or written record resulting therefrom shall be presumed prima facie to be acting in good faith and in so doing shall be immune from any liability, civil or criminal, that otherwise might be incurred or imposed. Further, no resident or employee of a facility serving aged or disabled persons shall be subjected to reprisal or discharge because of his actions in reporting abuse pursuant to the requirements of this section.

(13) PRIVILEGED COMMUNICATIONS.—The privileged quality of communication between husband and wife and between any professional person and his patient or client, and the other privileged communication except that between attorney and client, as such communication relates to both the competence of the witness and to the exclusion of confidential communications, shall not apply to any situation involving known or suspected abuse, neglect, or exploitation and shall not constitute grounds for failure to report as required by this section, failure to cooperate with the department in its activities pursuant to this section, or failure to give evidence in any judicial proceeding relating to abuse, neglect, or exploitation of an aged or disabled person.
(14) RULES TO BE PROMULGATED.--The Department of Health and Rehabilitative Services shall promulgate rules for the implementation of this section.

(15) PENALTIES.--

(a) Any person required by this section to report a case of known or suspected abuse, neglect, or exploitation of an aged or disabled person who knowingly and willfully fails to do so, or who knowingly and willfully prevents another person from doing so, is guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(b) Any person who knowingly and willfully makes public or disclose any confidential information contained in the abuse registry or in the records of any case of abuse, neglect, or exploitation except as provided in this section, is guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082, s. 775.083, or 775.084.

(c) Any person who knowingly or willfully abuses, neglects or exploits an aged or disabled person and, in so doing, causes great bodily harm, permanent disfigurement, or permanent disability to such person is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or 775.084.

(d) Any person who knowingly or willfully abuses, neglects, or exploits an aged or disabled person, and in so doing, causes minor injury, temporary disfigurement, or temporary disability to such person is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082, s. 775.083, or 775.084.

Section 2. This act shall take effect October 1, 1983.
**HOUSE SUMMARY**

With respect to the protection of abused, aged, and disabled persons, expands the list of persons required to report abuse, neglect, or exploitation of such persons and provides a time limit for reports. Provides for mandatory reporting of death and postmortem investigation by the medical examiner. Provides that the Department of Health and Rehabilitative Services shall investigate each report of institutional abuse.

Provides for involuntary provision of services pursuant to court order and provides for cooperation of all law enforcement and other agencies with the department.

Provides for confidentiality of all reports and records and provides access to such records for specified persons under certain conditions.

Provides that the department shall promulgate rules.

Provides penalties for specified violations.

**CODING**: Words in struck through type are deletions from existing law. Words underlined are additions.
A bill to be entitled
An act relating to the Department of Health and Rehabilitative Services; amending s. 827.09, Florida Statutes, relating to protection of abused, aged, and disabled persons; requiring certain reports and authorizing the department to take certain action with respect thereto; providing for certain confidentiality; providing penalties; repealing ss. 410.10-410.11, Florida Statutes, the "Adult Protective Services Act"; providing an effective date.

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

Section 1. Section 827.09, Florida Statutes, is amended to read:

827.09 Abuse, neglect, or exploitation of aged or disabled persons.--

(1) LEGISLATIVE INTENT.--The Legislature recognizes that there are many persons in this state who, because of age or disability, are in need of protective services. Such services should allow the individual the same rights as other citizens, and at the same time protect the individual from abuse, neglect, and exploitation. It is the intent of the Legislature to provide for the detection and correction of abuse, neglect, and exploitation and to establish a program of protective and supportive services for all persons in need of them. It is intended that the mandatory reporting of such cases will cause the protective services of the state to be
brought to bear in an effort to prevent further abuse, neglect, and exploitation. In doing so, the Legislature intends to place the least possible restrictions on personal liberty and the exercise of constitutional rights, consistent with due process and protection from abuse, neglect, and exploitation.

(2) DEFINITIONS.—As used in this section:

(a) "Abuse" means treatment under which an aged or disabled person is deprived, or allowed to be deprived, of necessary treatment, habilitation, care, sustenance, clothing, shelter, supervision, or medical services essential to his well-being; or is permitted to live in an environment, when such deprivation or environment causes, or is likely to cause impairment of physical or emotional health; or is subject to physical or psychological injury.

(b) "Abused person" means any aged or disabled person who has been subjected to abuse or whose condition suggests that he has been abused.

(c) "Aged person" means a person suffering from the infirmities of aging as manifested by organic brain damage, advanced age, or other physical, mental, or emotional dysfunctioning to the extent that the person is impaired in his ability to adequately provide for his own care or protection.

(d) "Department" means the Department of Health and Rehabilitative Services.

(e) "Disabled person" means any person who suffers from a condition of mental retardation, epilepsy, cerebral palsy, mental illness, or other disability which causes the person to be substantially unable to protect himself from the abusive conduct of others.

ENDNOTE: Words in italics throughout type are deletions from existing law; words underlined are additions.
(f) "Exploitation" means an unjust or improper use of another person for one's own profit or advantage.

(g) "Facility" means any public or private hospital, training center, clinic, school, or other program or service for aged or disabled persons.

(h) "Indicated report" means a report made pursuant to this section when a protective investigation determines that some indication of abuse, neglect, or exploitation exists.

(i) "Neglect" means to omit, forbear, or fail to exercise a degree of care and caution that a prudent person would deem essential to insure the well-being of an aged or disabled person and, by such omission, forbearance, or failure, significantly impair or jeopardize the physical or emotional health of the aged or disabled person.

(j) "Protective services" means those services, the objective of which is to protect an aged or disabled person. Such protective services shall include, but shall not be limited to, evaluation of the need for services, arrangements for appropriate living quarters, obtaining financial benefits to which the person is entitled, or securing medical and legal services. In those situations where exploitation, prevention of injury, and protection of the person and his property are at issue, protective services shall include seeking the appointment of a guardian for the person or seeking protective placement.

(k) "Unfounded report" means a report made pursuant to this section when a protective investigation determines that no indication of abuse, neglect, or exploitation exists.

(3) REPORTS OF ABUSE, NEGLECT, OR EXPLOITATION OF AGED OR DISABLED PERSONS REQUIRED.--

(a) Any person, including, but not limited to, any:
1. Physician, osteopath, medical examiner, chiropractor, nurse, or hospital personnel engaged in the admission, examination, care, or treatment of persons.

2. Health or mental health professional other than one listed in subparagraph 1.

3. Practitioner who relies solely on spiritual means for healing.

4. Nursing home worker, adult congregate living facility worker, adult day care center worker, social worker, or other professional adult care, foster care, residential or institutional worker.

5. Law enforcement officer who knows, or has reasonable cause to suspect, that an aged or disabled person is an abused, neglected, or exploited person shall immediately report such knowledge or suspicion to the department's abuse registry on the single statewide tollfree telephone number or directly to the local office of the department responsible for investigation of reports made pursuant to this section.

(b) Each report made by a person in an occupation designated in paragraph (a) shall be confirmed in writing by the individual making the report to the local office of the department within 48 hours of the initial report.

(c) Reports involving known or suspected institutional abuse, neglect, or exploitation shall be made and received in the same manner as all other reports made pursuant to this section.

(4) MANDATORY REPORTING OF DEATH AND POSTMORTEM INVESTIGATION BY MEDICAL EXAMINER.--Any person required to report or investigate cases of suspected abuse, neglect, or

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exploitation who has reasonable cause to suspect that an aged or disabled person died as a result of abuse, neglect, or exploitation, shall report his suspicion to the appropriate medical examiner. The medical examiner shall accept the report for investigation pursuant to s. 406.11 and shall report his findings, in writing, to the local law enforcement agency, the appropriate state attorney, and the department. Autopsy reports maintained by the medical examiner shall not be subject to the confidentiality requirements provided for in this section.

(5) REPORTS OF INSTITUTIONAL ABUSE, NEGLECT, OR EXPLOITATION.--The department shall conduct a protective investigation of each report of institutional abuse, neglect, or exploitation. Upon receipt of a report which alleges that an employee or agent of the department acting in an official capacity, has committed an act of abuse, neglect, or exploitation, the department shall immediately initiate a protective investigation and shall notify the state attorney in whose circuit the alleged abuse, neglect, or exploitation occurred. The state attorney shall immediately investigate the report and, no later than 15 days after completing the investigation, shall report his findings to the department.

(6) ABUSE REGISTRY.--

(a) The department shall establish and maintain a central abuse registry which shall receive reports made pursuant to this section in writing or through a single statewide tollfree telephone number which any person may use to report known or suspected abuse, neglect, or exploitation at any hour of the day or night, any day of the week. The abuse registry shall be operated in such a manner as to enable the department to:

CODING Words in struck through type are deletions from existing law, words underlined are additions.
1. Immediately identify and locate prior reports or cases of abuse, neglect, or exploitation.

2. Regularly evaluate the effectiveness of the department's program for abused, neglected, or exploited persons through the development and analysis of statistical and other information.

(b) Upon receiving an oral or written report of known or suspected abuse, neglect, or exploitation, the abuse registry shall immediately notify the local office of the department with respect to the report, any previous report concerning a subject of the present report, or any other pertinent information relative thereto.

(c) Upon completion of its investigation, the local office of the department shall classify reports either as indicated or unfounded. All identifying information in the abuse registry maintained in unfounded reports shall be expunged immediately. All identifying information in the abuse registry maintained in indicated reports shall be expunged from the registry 7 years from the date of the last indicated report concerning the same victim or the same perpetrator. All information, other than identifying information, maintained in indicated or unfounded reports at the time of expunction shall be disposed of in a manner deemed appropriate by the department and pursuant to s. 119.041 and s. 257.051(6). Nothing in this section is intended to require the expunction or destruction of case records or information required by the federal government to be retained for future audit.

(7) PROTECTIVE INVESTIGATIONS.--

(a) The department shall, upon receipt of a report of abuse, neglect, or exploitation of an aged or disabled person,
cause an immediate protective investigation to be made and
shall in turn, upon determining probable cause, notify the
state attorney. The state attorney shall immediately
investigate the report and, no later than 15 days after
completing the investigation, shall report his findings to the
department. The department shall, within 24 hours of receipt
of the report notify the appropriate human rights advocacy
committee, as established pursuant to s. 20.19(7), that an
alleged abuse has occurred. Such notice may be accomplished
verbally or in writing and shall include the name of the
person alleged to have been abused and the nature of the
report. The department shall provide protective services
under any of the following conditions:

1. The person demonstrates a need for, and requests,
such services.

2. An interested person requests such services on
behalf of a person in need of services.

3. The department determines a person is in need of
such services.

4. A court orders such services.

(b) Voluntary services.--An individual shall receive
protective services voluntarily unless ordered by the court,
requested by a guardian, or provided in accordance with
subsection (8).

(8) INVOLUNTARY PROVISION OF SERVICES.--

(a) Every reasonable effort shall be made to secure
the consent and participation of the aged or disabled person
in the assessment and resolution of his own need for
protective services.

(b) Upon probable cause to believe that an aged or
disabled person is being abused, neglected, or exploited, a
representative of the department, accompanied by a law
enforcement officer may enter a premises after obtaining a
court order and announcing their authority and purpose.

(c) Forcible entry shall be attained only after a
court order has been obtained, unless there is probable cause
to believe that the delay incident of such an order would
cause an aged or disabled person to incur a substantial risk
of life-threatening physical harm.

(d) When, from the personal observation of a
representative of the department and a law enforcement
officer, it appears probable that an aged or disabled person
is likely to incur a substantial risk of life-threatening
physical harm or deterioration if not immediately removed from
the premises, the department's representative may, when
authorized by a court order, take into custody and transport,
or make arrangements for the transportation and payment
thereof, the individual to an appropriate medical or
protective service facility.

(e) When action is taken under this section, a
preliminary hearing shall be held within 48 hours of the
signing of the court order, excluding Saturdays, Sundays, and
legal holidays, to establish probable cause for grounds for
protective placement.

(f) Upon a finding of probable cause, the court may
order temporary placement for up to 4 days, pending the
hearing for a need for continuing services.

(9) COOPERATION WITH LAW ENFORCEMENT AND OTHER
AGENCIES.--

(a) All state, county, and municipal law enforcement
and public agencies have a duty to cooperate with the
department and its employees, transmit reports of abuse,

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neglect, and exploitation to the department, and protect and
enhance the welfare of aged or disabled persons who are
potentially subject to abuse, neglect, or exploitation
detected by a report made pursuant to this section.

(b) Any funds appropriated by counties for home health
care or boarding home, foster home, or nursing home services
may be matched by state and federal funds; such funds shall be
utilized by the Department of Health and Rehabilitative
Services for the benefit of aged or disabled persons in said
counties.

(c) The Department of Health and Rehabilitative
Services may purchase services from any public or private
institution, or institution or agency within the state which
meets the standards and rules prescribed by the department for
the proper care and supervision of abused, neglected, or
exploited persons.

(d) Every facility serving aged or disabled persons
shall inform residents of their rights to report abusive,
neglectful, or exploitive practices and shall establish
appropriate policies and procedures to facilitate such
reporting.

(10) CONFIDENTIALITY OF REPORTS AND RECORDS.--

(a) In order to protect the rights of the individual
or other persons responsible for the welfare of the aged or
disabled person, all records concerning reports of abuse,
neglect, or exploitation of the aged or disabled person,
including reports made to the abuse registry and to local
offices of the department and all records generated as a
result of such reports, shall be confidential and exempt from
the provisions of s. 119.07(1), and shall not be disclosed
except as specifically authorized by this section.
(b) Access to such records, excluding the name of the person making the report, which shall be released only as provided in paragraph (d), shall be granted only to the following persons, officials, and agencies for the following purposes:

1. Employees or agents of the department responsible for carrying out protective investigations, ongoing protective services, or licensure or approval of nursing homes, adult congregate living facilities, adult day care centers or other facilities, used for the placement of aged or disabled persons.

2. A law enforcement agency investigating a report of known or suspected abuse, neglect, or exploitation.

3. The state attorney of the judicial circuit in which the aged or disabled individual resides or in which the alleged abuse, neglect, or exploitation occurred.

4. Any aged or disabled person or perpetrator who is the subject of a report or the subject's guardian, custodian, guardian ad litem, or counsel.

5. A court, by subpoena, upon its finding that access to such records may be necessary for the determination of an issue before the court; however, such access shall be limited to in camera inspection, unless the court determines that public disclosure of the information contained therein is necessary for the resolution of an issue then pending before it.

6. A grand jury, by subpoena, upon its determination that access to such records is necessary in the conduct of its official business.

7. Any appropriate official of the department responsible for:

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CODING: Words in italics through type are deletions from existing law; words underlined are additions.
a. Administration or supervision of the department's program for the prevention, investigation, or treatment of abuse, neglect, or exploitation when carrying out his official function; or

b. Taking appropriate administrative action concerning an employee of the department alleged to have perpetrated institutional abuse, neglect, or exploitation.

8. Any person engaged in bona fide research or audit purposes. However, no information identifying the subjects of the report shall be made available to the researcher unless such information is absolutely essential to the research purpose, suitable provision is made to maintain the confidentiality of the data, and the department has given written approval.

(c) The department may release to professional persons such information as is necessary for the diagnosis and treatment of the victim or the person perpetrating the abuse.

(d) The name of any person reporting abuse, neglect, or exploitation shall in no case be released to any person other than employees of the department responsible for protective services, the abuse registry, or the appropriate state attorney without the written consent of the person reporting abuse, neglect, or exploitation when deemed necessary by the state attorney or the department to protect an aged or disabled person who is the subject of a report, provided that the fact that such person made the report is not disclosed. The department shall, upon receipt of an application of a person applying for approval or licensure of a facility to care for the aged or disabled persons, whether such care is for less than or more than 24 hours, search its abuse registry for the existence of an indicated report and

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the results of the adult protective assessment conducted pursuant thereto.

(11) TRANSMITTAL OF RECORDS.--With respect to any case of reported abuse of an aged or disabled person, the department, when appropriate, shall transmit all reports received by it, which shall contain the results of the investigation, to the state attorney of the county where the incident occurred.

(12) IMMUNITY.--Anyone participating in the making of a report pursuant to this section or participating in a judicial proceeding resulting therefrom shall be presumed prima facie to be acting in good faith and in so doing shall be immune from any liability, civil or criminal, that otherwise might be incurred or imposed. Further, no resident or employee of a facility serving aged or disabled persons shall be subjected to reprisal or discharge because of his actions in reporting abuse pursuant to the requirements of this section.

(13) ABROGATION OF PRIVILEGED COMMUNICATIONS.--The privileged quality of communication between husband and wife and between any professional person and his patient or client, and any other privileged communication except that between attorney and client, as such communication relates to both the competency of the witness and to the exclusion of confidential communications, shall not apply to any situation involving known or suspected abuse, neglect, or exploitation and shall not constitute grounds for failure to report as required by this section, failure to cooperate with the department in its activities pursuant to this section, or failure to give evidence in any judicial proceeding relating to abuse, neglect, or exploitation of an aged or disabled person.
(14) RULES TO BE PROMULGATED.--The Department of
Health and Rehabilitative Services shall promulgate rules for
the implementation of this section.

(15) PENALTIES.--

(a) Any person required by this section to report a
case of known or suspected abuse, neglect, or exploitation of
an aged or disabled person who knowingly and willfully fails
to do so, or who knowingly and willfully prevents another
person from doing so, is guilty of a misdemeanor of the second
degree, punishable as provided in s. 775.082, s. 775.083, or
s. 775.084.

(b) Any person who knowingly and willfully makes
public or discloses any confidential information contained in
the abuse registry or in the records of any case of abuse,
neglect, or exploitation except as provided in this section,
is guilty of a misdemeanor of the second degree, punishable as
provided in s. 775.082, s. 775.083, or 775.084.

(c) Any person who knowingly or willfully abuses,
neglects or exploits an aged or disabled person and, in so
doing, causes great bodily harm, permanent disfigurement, or
permanent disability to such person is guilty of a felony of
the third degree, punishable as provided in s. 775.082, s.
775.083, or s. 775.084.

(d) Any person who knowingly or willfully abuses,
neglects, or exploits an aged or disabled person, and in so
doing, causes minor injury, temporary disfigurement, or
temporary disability to such person is guilty of a misdemeanor
of the first degree, punishable as provided in s. 775.082, s.
775.083, or s. 775.084.

CODING Words in struck through type are deletions from existing law, words underlined are additions.

Section 3. This act shall take effect October 1, 1983.

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HOUSE SUMMARY

With respect to the protection of abused, aged, and disabled persons, expands the list of persons required to report abuse, neglect, or exploitation of such persons and provides a time limit for reports. Provides for mandatory reporting of death and postmortem investigation by the medical examiner. Provides that the Department of Health and Rehabilitative Services shall investigate each report of institutional abuse.

Provides for involuntary provision of services pursuant to court order and provides for cooperation of all law enforcement and other agencies with the department.

Provides for confidentiality of all reports and records and provides access to such records for specified persons under certain conditions.

Provides that the department shall promulgate rules.

Provides penalties for specified violations.

Repeals ss. 410.10 through 410.11, Florida Statutes, the "Adult Protection Services Act."

CODING: Words in struck through type are deletions from existing law, words underlined are additions.
COMMITTEE ON HEALTH & REHABILITATIVE SERVICES

I. Summary

A. Present Situation

Currently, provisions relating to the protection of aged persons from abuse or other maltreatment are found in two sections of statute with some conflicts between the two. The Adult Protective Services Act (ss. 410.10-410.11, F.S.) pertains only to the delivery of protective services to individuals suffering from the infirmities of aging, while s. 827.09, F.S., deals with the reporting of abuse or other maltreatment of both disabled persons and persons suffering from the infirmities of aging.

The definition of abuse given in s. 410.102, F.S., refers only to acts of omission. The current penalties section requires a finding of both knowing or willful abuse, neglect, or exploitation and minor injury, disfigurement, or disability before a person can be found guilty of a first degree misdemeanor.

B. Probable Effect of Proposed Changes

CS/HB 644 combines the provisions of ss. 410.10 and 827.09, F.S., into a single section, making the provisions compatible and providing a clearer approach to both the mandatory reporting requirements and the delivery of protective services to both the disabled and aged population.

The bill expands the suspected conditions which must be reported to the abuse registry to include exploitation which is defined as an unjust or improper use of another person for one's own profit or advantage. It also provides for the mandatory reporting of death and investigation by the medical examiner and for the Department of Health and Rehabilitative Services to investigate institutional abuse and report such abuse to the state attorney who is required to investigate and file a report with the department within 15 days, a timeframe not currently in statute. These provisions are consistent with those in s. 827.07, F.S., dealing with the abuse of children.

The definition of abuse is expanded to include acts of commission. The penalty of first degree misdemeanor is limited to a finding of knowing or willful abuse, neglect, or exploitation.

II. Fiscal Impact

The department indicates that there would be no fiscal impact on the agency in the implementation of this bill.

III. Comments

None.

Prepared by: Beverly Whiddon
Staff Director: Kandace M. Hill
A bill to be entitled
An act relating to aging and adult services;
amending s. 410.035, Florida Statutes, relating
to subsidy payments; providing for development
of a schedule of subsidy payments by October 1,
1983; deleting minimum and maximum limits
thereon; providing an effective date.

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

Section 1. Section 410.035, Florida Statutes, is
amended to read:

410.035 Subsidy payments.--

(1) The department shall develop by October 1, 1983,
establish-by-rule-by-January-1, 1978, a schedule of subsidy
payments to be made to persons providing home care for certain
eligible elderly persons. Payments shall be
at least equal to the prevailing rate paid by the department for the
lowest level of nursing home care under s 409.2667 and no
greater than 45 percent of said amount. Payments shall be
based on the financial status of the person receiving care.
Payments shall include, but not be limited to:

(a) A support and maintenance element, to include
costs of housing, food, clothing, and incidentals.

(b) Payments for medical, pharmaceutical, and dental
services essential to maintain the health of the elderly
person and not covered by Medicare, Medicaid, or any form of
insurance.

(c) When necessary, special supplements to provide for
any service and specialized care required to maintain the
health and well-being of the elderly person.
(2) The department shall develop a plan for the implementation of a program of uniform subsidy payments to persons providing home care for the elderly.

Section 2. This act shall take effect July 1, 1983.

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HOUSE SUMMARY
With respect to provisions of law authorizing the Department of Health and Rehabilitative Services to make subsidy payments to certain persons providing home care for the elderly, removes language establishing minimum and maximum limits thereon and provides for development of a subsidy schedule by October 1, 1983.

CODING: Words in scratch through type are deletions from existing law; words underlined are additions.
I. Summary

A. Present Situation

Sections 410.031 through 410.036, F.S., provide the statutory authority for the Home Care for the Elderly (HCE) program which, according to legislative intent, is designed to encourage the provision of care for the elderly in family-type living arrangements in private homes as an alternative to institutional or nursing home care for such persons. All home care recipients at least meet the Medicaid requirements for the lowest level of nursing home care and, according to a 1982 study, the average HCE recipient is an 83 year old widowed female who has been living with a son or daughter for 10 years or longer and is severely or totally impaired.

Section 410.035, F.S., specifies that subsidies paid to providers of home care are to be established in rule and are to be no less than 10 percent nor more than 45 percent of the prevailing rate paid by the Department of Health and Rehabilitative Services (HRS) for the lowest level of nursing home care. This section also specifies that payments are to be based on the financial status of the person receiving care. In Fiscal Year 1982-83, with an appropriation of $3.1 million, 2,852 recipients received care under this program which is an estimated 3.44 percent of the target population. According to the department’s statistics, the average HCE recipient cost in 1982 was $134.70 per month compared to the prevailing rate paid by HRS for the lowest level of nursing home care of $853.

The April 1, 1983, implementation of the Title XIX nursing home reimbursement plan (Gainesville Plan) makes obsolete the reference in 410.035, F.S., to the prevailing rate paid by the department for the lowest level of care. The department now pays a single rate regardless of a resident’s level of care. Continuing to tie the HCE reimbursement rate to the nursing home reimbursement rate could result in a cut in the number of HCE recipients receiving a subsidy, unless that program receives an increased appropriation equivalent to that received for nursing home reimbursement under the Gainesville Plan. The requirement that the department establish its HCE subsidy schedule by rule has made it administratively difficult to modify the schedule.

B. Probable Effect of Proposed Changes

The proposed legislation deletes the requirement that the subsidy schedule be established in rule, directs the department to develop a subsidy schedule by October 1, 1983, and deletes the requirement that payments fall between 10 percent and 45 percent of the prevailing rate paid by the department for the lowest level of nursing home care. The schedule developed by the department would need to be based on the legislative appropriation for HCE and the number and financial status of clients to receive subsidies.

II. State/Local/Private Sector Fiscal Impact

A. State

None
B. Local

None

C. Private Sector

With the removal of the language tying the HCE subsidy to the prevailing nursing home rate, providers of home care services could receive a different subsidy than they are now receiving. Whether their subsidy increases or decreases would depend on the funds appropriated by the Legislature and the schedule developed by the department.

III. Comments

None

Prepared by: Beverly Whiddon

Staff Director: Kandace M. Hill
A bill to be entitled
An act relating to aging and adult services;
amending s. 410.035, Florida Statutes, relating
to subsidy payments; providing for development
of a schedule of subsidy payments by October 1,
1983; deleting minimum and maximum limits
thereon; providing an effective date.

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

Section 1. Section 410.035, Florida Statutes, is
amended to read:

410.035 Subsidy payments.--
(1) The department shall develop by October 1, 1983,
establish-by-rule-by-January-1r-1978, a schedule of subsidy
payments to be made to persons providing home care for certain
eligible elderly persons. Payments shall be based on the financial status of the person receiving care.
Payments shall include, but not be limited to:

(a) A support and maintenance element, to include
costs of housing, food, clothing, and incidentals.

(b) Payments for medical, pharmaceutical, and dental
services essential to maintain the health of the elderly
person and not covered by Medicare, Medicaid, or any form of
insurance.

(c) When necessary, special supplements to provide for
any service and specialized care required to maintain the
health and well-being of the elderly person.
(2) The department shall develop a plan for the implementation of the schedule of uniform subsidy payments to persons providing home care for the elderly.

Section 2. This act shall take effect July 1, 1983.

HOUSE SUMMARY

With respect to provisions of law authorizing the Department of Health and Rehabilitative Services to make subsidy payments to certain persons providing home care for the elderly, removes language establishing minimum and maximum limits thereon and provides for development of a subsidy schedule by October 1, 1983.
Section 310.035, R.S., specifies that subsidies paid to providers of home care are to be established in rules and are to be no less than 10 percent nor more than 45 percent of the prevailing rate paid by the Department of Health and Rehabilitative Services (HRS) for the lowest level of nursing home care. This section also specifies that payments are to be based on the financial status of the person receiving care. In Fiscal Year 1982-83, with an appropriation of $3.14 million, 2,852 recipients received care under this program which is an estimated 3.44 percent of the target population. According to the department's statistics, the average BCE recipient cost in 1982 was $34.70 per month compared to the prevailing rate paid by HRS for the lowest level of nursing home care of $853.

The April 1, 1983, implementation of the Title XIX nursing home reimbursement plan (Gainesville Plan) makes obsolete the reference in s. 310.015, R.S., to the prevailing rate paid by the department for the lowest level of care. The department now pays a single rate regardless of a resident's level of care. Continuing to tie the BCE reimbursement rate to the nursing home reimbursement rate could result in a cut in the number of BCE recipients receiving a subsidy, unless that program receives an increased appropriation equivalent to that received for nursing home reimbursement under the Gainesville Plan. The requirement that the department establish its BCE subsidy schedule by rule has made it administratively difficult to modify the schedule.

B. Probable Effect of Proposed Changes

The proposed legislation deletes the requirement that the subsidy schedule be established in rule, directs the department to develop a subsidy schedule by October 1, 1983, and deletes the requirement that payments fall between 10 percent and 45 percent of the prevailing rate paid by the department for the lowest level of nursing home care. The schedule developed by the department would need to be based on the legislative appropriation for BCE and the number and financial status of clients to receive subsidies.

II. State/Local/Private Sector Fiscal Impact

A. State

None
By Representative Casas

A bill to be entitled

An act relating to abuse of the elderly;

amending s. 410.11, Florida Statutes; providing

that abuse, neglect, exploitation, or

maltreatment of certain elderly persons,

without resulting injury to such person being

proven, is a misdemeanor of the first degree;

providing penalties; providing an effective
date.

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

Section 1. Section 410.11, Florida Statutes, is
amended to read:

410.11 Penalties.--

(1) Any person who knowingly or willfully abuses,
neglects, exploits, or maltreats an individual suffering from
the infirmities of aging and, in so doing, causes great bodily
harm, permanent disfigurement, or permanent disability to such
person is guilty of a felony of the third degree, punishable
as provided in s. 775.082, s. 775.083, or s. 775.084.

(2) Any person who knowingly or willfully abuses,
neglects, exploits, or maltreats an individual suffering from
the infirmities of aging and, in so doing, causes minor
temporary disfigurement or temporary disability to such
person is guilty of a misdemeanor of the first degree,
punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 2. This act shall take effect October 1, 1983.

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SENATE SUMMARY

Removes the requirement that abuse, neglect,
exploitation, or maltreatment of persons suffering from
the infirmities of age cause minor injury, temporary
disfigurement, or temporary disability in order to
constitute a misdemeanor of the first degree.

CODING: Words in italics through type are deletions from existing law, words underscored are additions
I. SUMMARY

A. PRESENT SITUATION:

Section 410.11 currently classifies the abuse, neglect, exploitation, or maltreatment of certain elderly persons in which minor injury, temporary disfigurement, or temporary disability is the result, as a misdemeanor of the first degree.

B. EFFECT OF PROPOSED CHANGES:

This bill removes the requirement that certain injury must result from the abuse, neglect, exploitation, or maltreatment of persons suffering from the infirmities of aging.

II. FISCAL IMPACT

The provision contained herein may result in a negative impact to local law enforcement agencies due to a possible increase in prosecutions pursuant to subsection (2). There may also be an increase in the number of persons sentenced to county jails through deletion of the requirement that injury was incurred in certain actions against elderly persons. Fines collected may offset or reduce any incarceration costs.

III. COMMENTS

Removal of the requirement that injury is incurred as a result of certain actions against elderly persons may be subject to a constitutional challenge on the grounds that the prohibited acts are not specifically defined by law. It may also be unclear
as to the existence of a relationship between persons effected by subsection (2).

IV. AMENDMENTS

Prepared by: Marie Mattox-Shelfer

Staff Director: Thomas R. Tedcastle

Copy to Sponsor: April 29, 1983
A bill to be entitled
An act relating to abuse of the elderly,
amending s. 410.11, Florida Statutes, providing
that abuse, neglect, exploitation, or
maltreatment of certain elderly persons,
without resulting injury to such person being
proven, is a misdemeanor of the first degree,
providing penalties; providing an effective
date

Be It Enacted by the Legislature of the State of Florida-

Section 1 Section 410.11, Florida Statutes, is
amended to read:

410.11 Penalties.--
(1) Any person who knowingly or willfully abuses,
neglects, exploits, or maltreats an individual suffering from
the infirmities of aging and, in so doing, causes great bodily
harm, permanent disfigurement, or permanent disability to such
person is guilty of a felony of the third degree, punishable
as provided in s. 775.082, s. 775.083, or s. 775.084

(2) Any person who knowingly or willfully abuses,
neglects, exploits, or maltreats an individual suffering from
the infirmities of aging and, in so doing, causes minor
injury; temporary disfigurement; or temporary disability to
such person is guilty of a misdemeanor of the first degree,
punishable as provided in s. 775.082, s. 775.083, or s.
775.084

Section 2 This act shall take effect October 1, 1983.
SENATE SUMMARY

Removes the requirement that abuse, neglect, exploitation, or maltreatment of persons suffering from the infirmities of age cause minor injury, temporary disfigurement, or temporary disability in order to constitute a misdemeanor of the first degree.