

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 991

Adult Protective Services

SPONSOR(S): Culp

TIED BILLS:

IDEN./SIM. BILLS: SB 1360

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Elder & Long-Term Care Committee	8 Y, 0 N	Walsh	Liem
2) Health Care Appropriations Committee	10 Y, 0 N	Ekholm	Massengale
3) Health & Families Council		Walsh	Moore
4) _____	_____	_____	_____
5) _____	_____	_____	_____

SUMMARY ANALYSIS

The bill amends the Adult Protective Services Act to allow the Department of Children and Family Services explicit authority to protect persons from the effects of self-neglect.

The bill is effective upon becoming law.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide limited government; promote personal responsibility—The bill amends the Adult Protective Services Act to allow DCF explicit authority to protect persons from the effects of self-neglect.

B. EFFECT OF PROPOSED CHANGES:

Chapter 415, Florida Statutes, the Adult Protective Services Act, provides statutory authority to the Department of Children and Family Services (DCF) to investigate reports of alleged second party abuse, neglect and exploitation of vulnerable adults¹ caused by the vulnerable adult himself, that is, self-neglect.² In Fiscal Year 2003-2004, DCF investigated 6,394 cases reported to the Florida Abuse Hotline that were verified or contained some indications of self-neglect (other than medical neglect).³ More than 40 percent of these self-neglect cases occurred in persons 80 years of age and older.

The Adult Protective Services program is a system of specialized social services directed toward protecting vulnerable adults who are unable to manage their own affairs from further occurrences of abuse, neglect, or exploitation. The department sends staff to make an assessment of an individual's need for protective services after a reported allegation of abuse, neglect, or exploitation is received at the Hotline. Adult Protective Services includes four basic elements:

1. The on-site investigation of all reports of alleged abuse, neglect, or exploitation.
2. Determination of immediate risk to the vulnerable adult and the provision of necessary emergency services.
3. Evaluation of the need for and provision of on-going protective supervision.
4. Provision or arrangement of on-going protective services.

If a vulnerable adult is in danger of continued abuse, neglect or exploitation, staff from the Aging Services Program provides services through the authority of the Protective Supervision Program.

The current definition of "neglect" in section 415.102(15), Florida Statutes, does not include neglect caused by the vulnerable adult, and the department's authority to provide services in cases of self-neglect has been questioned by the courts.⁴

House Bill 991 adds "vulnerable adult" to the definition of "neglect" in section 415.102(15), Florida Statutes, and adds "vulnerable adult in need of services"⁵ to section 415.1051(1), Florida Statutes, relating to non-emergency protective services. These changes will give DCF explicit authority to

¹ "Vulnerable adult" means a person 18 years of age or older whose ability to perform the normal activities of daily living or to provide for his or her own care or protection is impaired due to a mental, emotional, long-term physical, or developmental disability or dysfunctioning, or brain damage, or the infirmities of aging. S. 415.102(26), F.S.

² See, e.g., ss. 415.104, 415.105, F.S.

³ *Adult Protective Services Annual Report Fiscal Year 2003-2004*, Table F-6, Demographic Characteristics of Victims by Verified and Some Indication Maltreatments, Self-Neglect In Need of Services, Department of Children and Family Services, March 2005.

⁴ *Florida Department of Children and Family Services v. McKim*, 869 So.2d 760 (Fla. 1st DCA 2004) (fact that allegedly vulnerable adult was suffering from results of self-neglect did not support order under Adult Protective Services Act of protective services, where definition of "neglect" required that neglect have occurred at hand of caregiver and statutory definition of "vulnerable adult" did not include concept of self-neglect.)

⁵ "Vulnerable adult in need of services" means a vulnerable adult who has been determined by a protective investigator to be suffering from the ill effects of neglect not caused by a second party perpetrator and is in need of protective services or other services to prevent further harm. S. 415.102(27), F.S.

provide voluntary services or petition the court for involuntary non-emergency services and protective supervision when an investigation determines that the vulnerable adult is neglecting himself or herself.

C. SECTION DIRECTORY:

Section 1. Amends s. 415.102(15), F. S., adding “vulnerable adult” to the definition of “neglect” to include within the definition of neglect the concept of self-neglect.

Section 2. Amends s. 415.1051(1), F. S., adding “vulnerable adult in need of services” to include, within the department’s authority to seek an order authorizing the provision of protective services, those persons determined to have neglected themselves.

Section 3. Provides the act is effective upon becoming law.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill does not require counties or municipalities to take an action requiring the expenditure of funds; does not reduce the authority that counties or municipalities have to raise revenue in the aggregate, and does not reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES