

SB 972 – Offenses Against Elderly Persons or Disabled Adults

Amends s. 775.0863, F.S., including that the commission of a felony or misdemeanor evidences prejudice “in whole or in part” for potential victims with a disability, deleting that a disability is a mental or health one, while also deleting victim and adding “any person” in its place. Disability is now defined as “a physical or mental impairment that substantially limits one or more of a person’s major life activities. The term includes, but is not limited to, Alzheimer’s disease and dementia.” With this bill, the penalty for any felony or misdemeanor shall be reclassified as provided in this subsection if during the commission of such felony or misdemeanor evidencing prejudice is in whole or in part based on the newly expanded definition of disability.

2nd degree misdemeanor increased to 1st degree misdemeanor
1st degree misdemeanor increased to 3rd degree felony
3rd degree felony increased to 2nd degree felony
2nd degree felony increased to 1st degree felony
1st degree felony increased to life felony

Furthermore, this bill amends s. 825.103, F.S., adding increased penalties for subsequent offenses of exploitation of an elderly person or disabled adult. Current language increases felonies based on monetary thresholds for funds, assets, or property involved in the exploitation.

Less than \$10,000: Level 6, 3rd degree felony
\$10,000 or more, but less than \$50,000: Level 7, 2nd degree felony
\$50,000 or more: Level 8, 1st degree felony

For less than \$10,000, an **unranked, 2nd degree felony (Level 4 by default)** is added for those who commit a third or subsequent offense. For \$10,000 or more, but less than \$50,000, an **unranked, 1st degree felony (Level 7 by default)** is added for those who commit a third or subsequent offense. For \$50,000 or more, an **unranked, 1st degree felony (Level 7 by default)** is added for those who commit a second or subsequent offense, and it is further stated that the offender “must be sentenced to a mandatory minimum term of imprisonment of 6 years.”

Per FDLE’s statewide UCR, in 2020, there were no offenses based on mental or physical disabilities. Additionally, there were no arrests under s. 775.0863, F.S. and nobody has been sentenced for evidencing prejudice during an offense against someone with a mental or physical disability. However, since this statute reclassifies felonies, such acts might not be captured in the initial arrest. DOC does not have data available on those felonies that were increased due to this statute.

Per DOC, in FY 18-19, there were 21 new commitments under s. 825.103, F.S. The average sentence lengths of the 4 new commitments for exploitation over \$50,000 was 60.5 months. In FY 19-20, there were 18 new commitments. The sentence length of the one new commitment for exploitation over \$50,000 was 34 months, though there was one new commitment under old statutory language (more than \$100,000) who had a sentence length of 30 months. In FY 20-21, there were 12 new commitments. The sentence length of the one new commitment for exploitation over \$50,000 was 30 months, though there were two new commitments under old statutory language (\$20,000 to \$100,000) who had sentence lengths of 36 months and 80 months. Per FDLE, there were no offenders with multiple arrests for \$50,000 or more in the last three fiscal years, there were 3 offenders with multiple arrests for \$10,000 or more, but less than \$50,000 in the last three fiscal years, and there were 8 offenders with multiple arrests for less than \$10,000 in the last three fiscal years. For the two lowest monetary thresholds, which the bill only increases penalties at three offenses, only one person had three arrests.

CONFERENCE ADOPTED ESTIMATE: Positive Insignificant

Requested by: Senate