

HOUSE BILL 2343
By Ferguson

AN ACT to amend Tennessee Code Annotated, Title 3; Title 4; Title 29; Title 39; Title 40; Title 63; Title 68 and Title 71, relative to abuse of certain persons.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. The title of this act is the Elder Tennesseans Protection Act of 2004, and may be cited as the "Elder Tennesseans Protection Act of 2004".

SECTION 2. Tennessee Code Annotated, Section 29-13-116, is amended by adding the following as a new subsection (e):

(e) The treasurer is authorized to award an annual grant to the division of adult protective services of the department of human services for elder abuse program operations in an amount not to exceed that specified in the General Appropriations Act each fiscal year.

SECTION 3. Tennessee Code Annotated, Section 40-24-107(c), is amended by designating the existing language as subdivision (1) and by adding the following as a new subdivision (2):

(2) Any interest or other moneys earned from investments for the benefit of the fund shall be earmarked for expenditure by the division of adult protective services of the department of human services for elder abuse program operations pursuant to section 29-13-116(e).

SECTION 4. Tennessee Code Annotated, Section 40-24-107(a)(1), is amended by adding the following as a new subitem (C):

(C) In addition to all other taxes imposed and in addition to other costs or fees pursuant to this section, there is assessed against any person who is convicted of a criminal offense by a court of record having criminal, except those crimes for which the

law imposes as a maximum possible punishment a fine of less than five hundred dollars (\$500) and no imprisonment, a privilege tax of ten dollars (\$10.00) in addition to any other costs or fees imposed in such action. The revenue from the tax imposed by this item shall be deposited in the criminal injuries compensation fund in a special account for elder abuse programs and shall be expended in accordance with the provisions of section 29-13-116(e).

SECTION 5. Tennessee Code Annotated, Section 71-6-117, is amended by deleting the language "Class A misdemeanor" and by substituting instead the language "Class D felony".

SECTION 6. Tennessee Code Annotated, Section 71-6-119, is amended by deleting the language "an aggravated assault" and by substituting instead the language "a Class C felony".

SECTION 7. Tennessee Code Annotated, Section 71-6-102(8), is amended by deleting the language "by a governmental agency".

SECTION 8. Tennessee Code Annotated, Title 71, Chapter 6, Part 1, is amended by adding the following as a new section:

71-6-121. (a) All nursing homes and offices of physicians licensed pursuant to title 63, chapters 6 or 9, are required to post the following in the main public entrance to the facility or office:

(1) Contact information including telephone numbers of the division of adult protective services and any other entity designated by the commissioner of human services as appropriate to render assistance to a person of advanced age who may be the victim of abuse, neglect, or exploitation; and

(2) A statement that a person of advanced age who may be the victim of abuse, neglect, or exploitation may seek assistance or file a complaint with the division concerning abuse, neglect, and exploitation.

(b) The information listed in subsection (a) shall be posted on a sign no smaller than eleven inches (11") in width and seventeen inches (17") in height.

(c) The division shall also prepare an insert for admission materials that the board for licensing health care facilities shall distribute to nursing homes, assisted living

facilities, and any other residential facility licensed by the board for distribution to all persons who become residents of such facilities.

SECTION 9. Tennessee Code Annotated, Title 71, Chapter 6, Part 1, is amended by adding the following as a new section:

71-6-122. The division of adult protective services of the department of human services shall establish a toll-free telephone service to enable citizens within the state to call the division free of charge to report abuse, neglect, or exploitation and to seek relevant assistance from the division in such matters.

SECTION 10. Tennessee Code Annotated, Section 40-11-150, is amended by adding the following as a new subsection (k):

(k)(1) Any offender arrested for a violation of section 71-6-119, involving physical harm or abuse in which the alleged victim is an adult of advanced age as such terms are defined in § 71-6-103, shall not be released within twelve (12) hours of such arrest if the official authorized to set bail in such case finds that such offender is a continuing threat to the alleged victim if released within such twelve (12) hour period. Such official may, however, release the accused in less than twelve (12) hours if the official determines that sufficient time has or will have elapsed for the victim to be protected.

(2) Such written findings must be attached to the warrant and shall be preserved as a permanent part of the record. The arresting officer shall make official note of the time of the arrest in order to establish the beginning of the twelve-hour period provided for in this subsection.

(i) A person who violates a condition of release imposed pursuant to this section shall be subject to immediate arrest with or without a warrant as provided in § 40-7-103(b). Such a violation shall be punished as contempt of the court imposing the conditions and the bail of such violator may be revoked.

SECTION 11. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the

act which can be given effect without the invalid provision or application, and to that end the provisions of this act are declared to be severable.

SECTION 12. This act shall take effect July 1, 2004, the public welfare requiring it.