A. DEFINITIONS

- Elderly person means a person 60 years of age or older who is suffering from the infirmities of aging as manifested by advanced age or organic brain damage, or other physical, mental, or emotional dysfunction, to the extent that the ability of the person to provide adequately for the person’s own care or protection is impaired. § 825.101(4).

- Caregiver means a person who has been entrusted with or has assumed responsibility for the care or the property of an elderly person. The term includes, but is not limited to: relatives, court-appointed or voluntary guardians; adult household members; neighbors; health care providers; and employees and volunteers of facilities. § 825.101(2).

- Abuse of an elderly person means:
  o Intentional infliction of physical or psychological injury upon an elderly person;
  o An intentional act that could reasonably be expected to result in physical or psychological injury to an elderly person; or
  o Active encouragement of any person to commit an act that results or could reasonably be expected to result in physical or psychological injury to an elderly person. § 825.102(1).

- Aggravated abuse of an elderly person occurs when a person:
  o Commits aggravated battery on an elderly person;
  o Willfully tortures, maliciously punishes, or willfully and unlawfully cages, an elderly person; or
  o Knowingly or willfully abuses an elderly person and in so doing causes great bodily harm, permanent disability, or permanent disfigurement. § 825.102(2).

- Neglect of an elderly person means:
  o A caregiver’s failure or omission to provide an elderly person with the care, supervision, and services necessary to maintain the elderly person’s physical and mental health; or
  o A caregiver’s failure to make a reasonable effort to protect an elderly person from abuse, neglect, or exploitation by another person. § 825.102(3).

- Lewd or lascivious offenses committed upon or in the presence of an elderly person include:
  o Lewd or lascivious battery upon an elderly person or disabled person;
- Lewd or lascivious molestation of an elderly person or disabled person; § 825.1025(3)(a); and

- Lewd or lascivious exhibition in the presence of an elderly person or disabled person. § 825.1025(4).

- Exploitation of an elderly person means:
  - Knowingly, by deception or intimidation, obtaining or using, or endeavoring to obtain or use, an elderly person’s or disabled adult’s funds, assets, or property with the intent to temporarily or permanently deprive the elderly person or disabled adult of the use, benefit, or possession of the funds, assets, or property, or to benefit someone other than the elderly person. § 825.103(1)(a).

- All forms of elder abuse as defined in Chapter 825 are felonies. §§ 825.102(1)&(2), 825.1025(3)(b), 825.103(3).

**B. POSSIBLE INDICATIONS OF ELDER ABUSE AND NEGLECT**

- **Physical/Sexual Abuse:** slap marks; unexplained fractures; bruises; welts; cuts; sores; burns; nonconsensual sexual contact.

- **Emotional Abuse:** withdrawal from normal activities; unexplained changes in alertness; or other unusual behavioral changes; aggressive or controlling caregiver.

- **Financial Abuse/Exploitation:** sudden change in finances and accounts; altered wills and trusts; unusual bank withdrawals; checks written as “loans” or “gifts,” loss of property; improper use of power of attorney.

- **Neglect:** lack of basic hygiene; lack of medical aids (glasses, walker, hearing aid, medications, etc.); hoarding; incapacitated person left without care; pressure ulcers; malnutrition; or dehydration.

**C. MANDATORY REPORTING**

The statute requires that certain persons, including, but not limited to, physicians and other health care professionals, spiritual healers, staff of nursing homes or other facilities caring for adults, social workers, and State, county, or municipal criminal justice employees or law enforcement officers, who know, or have reasonable cause to suspect, that a vulnerable adult has been or is being abused, neglected, or exploited, shall immediately report such knowledge or suspicion to the central abuse hotline. § 415.1034.
D. POSSIBLE INJUNCTIVE RELIEF

- **Abuse by Family Members; Order for Protection Against Domestic Violence:**
  - Petitioner and respondent must be family or household members. § 741.30(1)(e);
  - Family or household member means spouses, former spouses, persons related by blood or marriage, persons who are presently residing together as if a family or who have resided together in the past as if a family. With the exceptions of persons who have a child in common, the family or household members must be currently residing or have in the past resided together in the same single dwelling unit. § 741.28(3);
  - For further information please see the Domestic Violence Benchcard.

- **Abuse by Non-relative Caregivers; Order for Protection Against Repeat Violence:**
  - Two incidents of violence or stalking committed by the respondent, which are directed against the petitioner or the petitioner’s immediate family member. § 784.046(1)(b);
  - One of the two incidents of violence or stalking must have been within 6 months of the filing of the petition. § 784.046(1)(b);
  - For further information please see the Repeat Violence Benchcard.

- **Abuse by Individuals in a Dating Relationship; Order for Protection Against Dating Violence:**
  - Violence between individuals who have or have had a continuing and significant relationship of a romantic or intimate nature. The existence of such a relationship shall be determined based on the consideration of the following factors:
    - A dating relationship must have existed in the past 6 months;
    - The nature of the relationship must have been characterized by the expectation of affection or sexual involvement between the parties; and
    - The frequency and type of interaction between the persons involved in the relationship must have included that the persons have been involved over time and on a continuous basis during the course of the relationship. § 784.046(1)(d);
  - For further information please see the Dating Violence Benchcard.
E. SEXUAL ABUSE

- **Order for Protection Against Sexual Violence:**
  - While the statutory definition of sexual violence does not specifically include elders, the statute does include “any forcible felony wherein a sexual act is committed or attempted.” § 784.046(1)(c).
  - Section 825.1025 refers to lewd or lascivious offenses committed on elders.
  - Any victim of sexual violence has standing in the circuit court to file a sworn petition for an injunction for protection against sexual violence if:
    - The petitioner reported the sexual violence to law enforcement and is cooperating in any criminal proceeding against the respondent, regardless of whether criminal charges based on the sexual violence have been filed, reduced, or dismissed by the state attorney; or
    - The respondent who committed the sexual violence was sentenced to a term of imprisonment in state prison for the sexual violence and the respondent’s term of imprisonment has expired or is due to expire within 90 days following the date the petition is filed. § 784.046(2)(c);
  - For further information please see the Sexual Violence Benchcard.

F. STALKING

- **Order for Protection Against Stalking**
  - Stalking means the willful, malicious, and repeated following, harassing, or cyberstalking of another person. Stalking includes cyberstalking. § 784.048(2).
  - Cyberstalk means to engage in a course of conduct to communicate, or to cause to be communicated, words, images, or language by or through the use of electronic mail or communication, directed at a specific person, causing substantial emotional distress to that person and serving no legitimate purpose. § 784.048(1)(d).
  - For further information please see the Stalking Violence Benchcard.

G. EXPLOITATION OF AN ELDERLY PERSON, OR A VULNERABLE ADULT

- Statutes governing exploitation of elderly persons or vulnerable adults include those listed below; some proceedings may be referred to the circuit court division which handles probate and guardianship cases.
- A breach of a fiduciary duty to an elderly person by the person’s guardian, individual trustee, or agent is exploitation. § 825.103(1)(c).
• Guardianship is addressed in chapter 744. Pursuant to § 825.103(2), an injunction for protection against exploitation of a vulnerable adult may be filed by:
  o A vulnerable adult in imminent danger of being exploited;
  o The guardian of a vulnerable adult in imminent danger of being exploited;
  o A person or organization acting on behalf of the vulnerable adult with the consent of the vulnerable adult or his or her guardian; or
  o A person who simultaneously files a petition for determination of incapacity and appointment of an emergency temporary guardian.

• A sworn petition for an injunction for protection of a vulnerable adult must follow the format of § 825.1035(3)(a).

• The court must schedule a hearing on a filed petition at the earliest possible date. § 825.1035(3)(a).

• An order denying a petition for an ex parte injunction shall note the legal grounds for denial. If the only ground for denial is the failure to demonstrate an appearance of an immediate and present danger of exploitation, the court must set a full hearing at the earliest possible date. § 825.1035(5)(c).

• The court may issue an ex parte injunction for a fixed period, not to exceed 15 days, pending a hearing, if the conditions in § 825.1035(5)(a)1 are met. A full hearing must be set before the injunction ceases to be effective. The court may continue the hearing for good cause shown by any party, which may include a continuance to obtain service; however, the injunction is not extended beyond the initial 15 days due to a continuance. § 825.1035(5)(d).

• An ex parte injunction may grant relief pursuant to § 825.1035(5)(a)2.

• Upon notice and hearing, the court may issue a permanent injunction with relief it deems appropriate pursuant to § 825.1035(8).

• Petitioner, respondent, or a vulnerable adult may move to modify or dissolve the injunction at any time. No specific allegations are required. The terms of the injunction remain in effect until modified or dissolved. § 825.1035(8)(c) and (13).

• The court may enforce a violation by respondent of the injunction through a civil or criminal contempt proceeding and the state attorney may prosecute it as a criminal violation under § 825.1036.