

HOUSE RESEARCH

Bill Summary

FILE NUMBER: H.F. 1945

DATE: February 16, 2012

Version: First Engrossment

Authors: Gottwalt

Subject: Felony deprivation of a vulnerable adult

Analyst: Rebecca Pirius, 651-296-5044

This publication can be made available in alternative formats upon request. Please call 651-296-6753 (voice); or the Minnesota State Relay Service at 1-800-627-3529 (TTY) for assistance. Summaries are also available on our website at: www.house.mn/hrd.

1 **Criminal neglect of a vulnerable adult.**

Subd. 1. Gross misdemeanor crime. No changes.

Subd. 1a. Felony deprivation. Creates the new crime of felony deprivation of a vulnerable adult. Felony deprivation occurs when a caregiver or operator intentionally neglects a vulnerable adult and is reasonably able to make the necessary provisions, if:

- (1) the caregiver or operator knows or has reason to know the deprivation could likely result in substantial or great bodily harm; or
- (2) the deprivation occurred over an extended period of time.

Subd. 2. Exemptions. Conforming changes.

Subd. 2a. Felony penalties. Creates felony penalties for a violation of subdivision 1a that results in substantial or great bodily harm. If the conduct results in great bodily harm, the maximum penalty is a 10-year felony. If the conduct results in substantial bodily harm, the maximum penalty is a five-year felony.

Subd. 2b. Affirmative defenses. Provides affirmative defenses to prosecution under subdivision 1 or 1a, if proven by the preponderance of the evidence, that:

- (1) defendant is an individual employed by a facility or operator and does not have managerial or supervisory authority, and was unable to reasonably make the necessary provisions due to inadequate staffing levels, inadequate supervision, or institutional policies;
- (2) defendant is a facility or operator, or an employee in a position of managerial or supervisory authority, and did not knowingly, intentionally, or recklessly permit the criminal acts; or
- (3) the caregiver failed to perform the acts necessary to prevent the applicable level of harm because the caregiver was acting reasonably and necessarily to provide care to another vulnerable adult.

(Substantial bodily harm is defined in statute as "bodily injury which involves a temporary but substantial disfigurement, or which causes a temporary but substantial loss or impairment of the function of any bodily member or organ, or which causes a fracture of any bodily member." Minn. Stat. § 609.02, subd. 7a.

Great bodily harm is defined as "bodily injury which creates a high probability of death, or which causes serious permanent disfigurement, or which causes a permanent or protracted loss or impairment of the function of any bodily member or organ or other serious bodily harm." Minn. Stat. § 609.02, subd. 8.)