

Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	<u> </u>	(Y/N)
ADOPTED AS AMENDED	<u> </u>	(Y/N)
ADOPTED W/O OBJECTION	<u> </u>	(Y/N)
FAILED TO ADOPT	<u> </u>	(Y/N)
WITHDRAWN	<u> </u>	(Y/N)
OTHER	<u> </u>	

1 Committee/Subcommittee hearing bill: Criminal Justice
 2 Subcommittee
 3 Representative Waldman offered the following:

Amendment (with title amendment)

6 Remove everything after the enacting clause and insert:

7 Section 1. Subsections (8) through (34) of section 39.01,
 8 Florida Statutes, are renumbered as subsections (7) through
 9 (33), respectively, present subsection (7) is reordered and
 10 renumbered as subsection (34) and amended, and present
 11 subsection (14) of that section is amended, to read:

12 39.01 Definitions.—When used in this chapter, unless the
 13 context otherwise requires:

14 ~~(34)-(7) "Alleged juvenile sexual offender" means:~~

15 ~~(a) A child 12 years of age or younger who is alleged to~~
 16 ~~have committed a violation of chapter 794, chapter 796, chapter~~
 17 ~~800, s. 827.071, or s. 847.0133; or~~

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18 ~~(b) A child who is alleged to have committed any violation~~
19 ~~of law or delinquent act involving juvenile sexual abuse.~~

20 "Juvenile sexual abuse" means any sexual behavior by a child
21 that ~~which~~ occurs without consent, without equality, or as a
22 result of coercion. For purposes of this subsection ~~paragraph~~,
23 the term ~~following definitions~~ apply:

24 (a)1. "Coercion" means the exploitation of authority or
25 the use of bribes, threats of force, or intimidation to gain
26 cooperation or compliance.

27 (b)2. "Equality" means two participants operating with the
28 same level of power in a relationship, neither being controlled
29 nor coerced by the other.

30 (c)3. "Consent" means an agreement, including all of the
31 following:

32 1.a. Understanding what is proposed based on age,
33 maturity, developmental level, functioning, and experience.

34 2.b. Knowledge of societal standards for what is being
35 proposed.

36 3.e. Awareness of potential consequences and alternatives.

37 4.d. Assumption that agreement or disagreement will be
38 accepted equally.

39 5.e. Voluntary decision.

40 6.f. Mental competence.

41
42 Juvenile sexual abuse ~~offender~~ behavior ranges from noncontact
43 sexual behavior such as making obscene phone calls,

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44 exhibitionism, voyeurism, and the showing or taking of lewd
45 photographs to varying degrees of direct sexual contact, such as
46 frottage, fondling, digital penetration, rape, fellatio, sodomy,
47 and various other sexually aggressive acts.

48 (14) "Child who has exhibited inappropriate sexual
49 behavior" means a child ~~who is 12 years of age or younger and~~
50 who has been found by the department or the court to have
51 committed an inappropriate sexual act.

52 Section 2. Paragraph (c) of subsections (1) and (2) of
53 section 39.201, Florida Statutes, are amended to read:

54 39.201 Mandatory reports of child abuse, abandonment, or
55 neglect; mandatory reports of death; central abuse hotline.—

56 (1)

57 (c) Any person who knows, or has reasonable cause to
58 suspect, that a child is the victim of childhood sexual abuse or
59 the victim of juvenile sexual abuse ~~a known or suspected~~
60 ~~juvenile sexual offender, as defined in this chapter,~~ shall
61 report such knowledge or suspicion to the department in the
62 manner prescribed in subsection (2).

63 (2)

64 (c) Reports involving juvenile sexual abuse ~~a known or~~
65 ~~suspected juvenile sexual offender~~ or a child who has exhibited
66 inappropriate sexual behavior shall be reported to the
67 department's central abuse hotline ~~be made and received by the~~
68 ~~department.~~

69 1. The department shall determine the age of the alleged

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70 offender, if known.

71 ~~2. If the alleged offender is 12 years of age or younger,~~
72 the central abuse hotline shall immediately electronically
73 transfer the report or call to the county sheriff's office. The
74 department shall conduct an assessment and assist the family in
75 receiving appropriate services pursuant to s. 39.307~~, and send a~~
76 written report of the allegation to the appropriate county
77 sheriff's office within 48 hours after the initial report is
78 made to the central abuse hotline.

79 3. The department must ensure that the fact and results of
80 any investigation of juvenile sexual abuse involving a child in
81 the custody of or under the protective supervision of the
82 department are made known to the court at the next hearing or
83 included in the next report to the court concerning the child.
84 ~~If the alleged offender is 13 years of age or older, the central~~
85 ~~abuse hotline shall immediately electronically transfer the~~
86 ~~report or call to the appropriate county sheriff's office and~~
87 ~~send a written report to the appropriate county sheriff's office~~
88 ~~within 48 hours after the initial report to the central abuse~~
89 ~~hotline.~~

90 Section 3. Section 39.307, Florida Statutes, is amended to
91 read:

92 39.307 Reports of child-on-child sexual abuse.—

93 (1) Upon receiving a report alleging juvenile sexual abuse
94 or inappropriate sexual behavior as defined in s. 39.01(7), the
95 department shall assist the family in receiving appropriate

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96 services to address the allegations of the report.

97 (a) The department shall ensure that information
98 describing a child's history of juvenile sexual abuse is
99 included in the child's electronic record. This record must also
100 include information describing the services the child has
101 received as a result of his or her involvement with juvenile
102 sexual abuse.

103 (b) Placement decisions for a child who has been involved
104 with juvenile sexual abuse must include consideration of he
105 needs of the child and any other children in the home being
106 considered for placement.

107 (2) The department, contracted sheriff's office providing
108 protective investigation services, or contracted case management
109 personnel responsible for providing services, at a minimum,
110 shall adhere to the following procedures:

111 (a) The purpose of the response to a report alleging
112 juvenile sexual abuse or inappropriate sexual behavior shall be
113 explained to the caregiver.

114 1. The purpose of the response shall be explained in a
115 manner consistent with legislative purpose and intent provided
116 in this chapter.

117 2. The name and office telephone number of the person
118 responding shall be provided to the caregiver of the alleged
119 abuser ~~juvenile sexual offender~~ or child who has exhibited
120 inappropriate sexual behavior and the victim's caregiver.

121 3. The possible consequences of the department's response,

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122 including outcomes and services, shall be explained to the
123 caregiver of the alleged abuser ~~juvenile sexual offender~~ or
124 child who has exhibited inappropriate sexual behavior and the
125 victim's caregiver.

126 (b) The caregiver of the alleged abuser ~~juvenile sexual~~
127 ~~offender~~ or child who has exhibited inappropriate sexual
128 behavior and the victim's caregiver shall be involved to the
129 fullest extent possible in determining the nature of the sexual
130 behavior concerns and the nature of any problem or risk to other
131 children.

132 (c) The assessment of risk and the perceived treatment
133 needs of the alleged abuser ~~juvenile sexual offender~~ or child
134 who has exhibited inappropriate sexual behavior, the victim, and
135 respective caregivers shall be conducted by the district staff,
136 the child protection team of the Department of Health, and other
137 providers under contract with the department to provide services
138 to the caregiver of the alleged offender, the victim, and the
139 victim's caregiver.

140 (d) The assessment shall be conducted in a manner that is
141 sensitive to the social, economic, and cultural environment of
142 the family.

143 (e) If necessary, the child protection team of the
144 Department of Health shall conduct a physical examination of the
145 victim, which is sufficient to meet forensic requirements.

146 (f) Based on the information obtained from the alleged
147 abuser ~~juvenile sexual offender~~ or child who has exhibited

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148 inappropriate sexual behavior, his or her caregiver, the victim,
149 and the victim's caregiver, an assessment of service and
150 treatment needs must be completed and, if needed, a case plan
151 developed within 30 days.

152 (g) The department shall classify the outcome of the
153 report as follows:

154 1. Report closed. Services were not offered because the
155 department determined that there was no basis for intervention.

156 2. Services accepted by alleged abuser ~~juvenile sexual~~
157 ~~offender~~. Services were offered to the alleged abuser ~~juvenile~~
158 ~~sexual offender~~ or child who has exhibited inappropriate sexual
159 behavior and accepted by the caregiver.

160 3. Report closed. Services were offered to the alleged
161 abuser ~~juvenile sexual offender~~ or child who has exhibited
162 inappropriate sexual behavior, but ~~were~~ rejected by the
163 caregiver.

164 4. Notification to law enforcement. The risk to the
165 victim's safety and well-being cannot be reduced by the
166 provision of services or the caregiver rejected services, and
167 notification of the alleged delinquent act or violation of law
168 to the appropriate law enforcement agency was initiated.

169 5. Services accepted by victim. Services were offered to
170 the victim and accepted by the caregiver.

171 6. Report closed. Services were offered to the victim but
172 were rejected by the caregiver.

173 (3) If services have been accepted by the alleged abuser

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174 ~~juvenile sexual offender~~ or child who has exhibited
175 inappropriate sexual behavior, the victim, and respective
176 caregivers, the department shall designate a case manager and
177 develop a specific case plan.

178 (a) Upon receipt of the plan, the caregiver shall indicate
179 its acceptance of the plan in writing.

180 (b) The case manager shall periodically review the
181 progress toward achieving the objectives of the plan in order
182 to:

183 1. Make adjustments to the plan or take additional action
184 as provided in this part; or

185 2. Terminate the case if indicated by successful or
186 substantial achievement of the objectives of the plan.

187 (4) Services provided to the alleged abuser ~~juvenile~~
188 ~~sexual offender~~ or child who has exhibited inappropriate sexual
189 behavior, the victim, and respective caregivers or family must
190 be voluntary and of necessary duration.

191 (5) If the family or caregiver of the alleged abuser
192 ~~juvenile sexual offender~~ or child who has exhibited
193 inappropriate sexual behavior fails to adequately participate or
194 allow for the adequate participation of the child in the
195 services or treatment delineated in the case plan, the case
196 manager may recommend that the department:

197 (a) Close the case;

198 (b) Refer the case to mediation or arbitration, if
199 available; or

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200 (c) Notify the appropriate law enforcement agency of
201 failure to comply.

202 (6) At any time, as a result of additional information,
203 findings of facts, or changing conditions, the department may
204 pursue a child protective investigation as provided in this
205 chapter.

206 (7) The department may ~~is authorized to~~ develop rules and
207 other policy directives ~~necessary to~~ administer ~~implement the~~
208 ~~provisions of~~ this section.

209 Section 4. Paragraph (b) of subsection (4) of section
210 39.0132, Florida Statutes, is amended to read:

211 39.0132 Oaths, records, and confidential information.—

212 (4)

213 (b) The department shall disclose to the school
214 superintendent the presence of any child in the care and custody
215 or under the jurisdiction or supervision of the department who
216 has a known history of criminal sexual behavior with other
217 juveniles; ~~is an~~ alleged to have committed juvenile sex abuse
218 ~~offender, as defined in s. 39.01;~~ or has pled guilty or nolo
219 contendere to, or has been found to have committed, a violation
220 of chapter 794, chapter 796, chapter 800, s. 827.071, or s.
221 847.0133, regardless of adjudication. Any employee of a district
222 school board who knowingly and willfully discloses such
223 information to an unauthorized person commits a misdemeanor of
224 the second degree, punishable as provided in s. 775.082 or s.
225 775.083.

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226 Section 5. Subsection (1) of section 39.302, Florida
227 Statutes, is amended to read:

228 39.302 Protective investigations of institutional child
229 abuse, abandonment, or neglect.—

230 (1) The department shall conduct a child protective
231 investigation of each report of institutional child abuse,
232 abandonment, or neglect. Upon receipt of a report that alleges
233 that an employee or agent of the department, or any other entity
234 or person covered by s. 39.01(32) ~~39.01(33)~~ or (47), acting in
235 an official capacity, has committed an act of child abuse,
236 abandonment, or neglect, the department shall initiate a child
237 protective investigation within the timeframe established under
238 s. 39.201(5) and notify the appropriate state attorney, law
239 enforcement agency, and licensing agency, which shall
240 immediately conduct a joint investigation, unless independent
241 investigations are more feasible. When conducting investigations
242 or having face-to-face interviews with the child, investigation
243 visits shall be unannounced unless it is determined by the
244 department or its agent that unannounced visits threaten the
245 safety of the child. If a facility is exempt from licensing, the
246 department shall inform the owner or operator of the facility of
247 the report. Each agency conducting a joint investigation is
248 entitled to full access to the information gathered by the
249 department in the course of the investigation. A protective
250 investigation must include an interview with the child's parent
251 or legal guardian. The department shall make a full written

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252 report to the state attorney within 3 working days after making
253 the oral report. A criminal investigation shall be coordinated,
254 whenever possible, with the child protective investigation of
255 the department. Any interested person who has information
256 regarding the offenses described in this subsection may forward
257 a statement to the state attorney as to whether prosecution is
258 warranted and appropriate. Within 15 days after the completion
259 of the investigation, the state attorney shall report the
260 findings to the department and shall include in the report a
261 determination of whether ~~or not~~ prosecution is justified and
262 appropriate in view of the circumstances of the specific case.

263 Section 6. Paragraph (d) of subsection (4) of section
264 985.04, Florida Statutes, is amended to read:

265 985.04 Oaths; records; confidential information.—

266 (4)

267 (d) The department shall disclose to the school
268 superintendent the presence of any child in the care and custody
269 or under the jurisdiction or supervision of the department who
270 has a known history of criminal sexual behavior with other
271 juveniles; is ~~an~~ alleged to have committed juvenile sexual abuse
272 offender, as defined in s. 39.01; or has pled guilty or nolo
273 contendere to, or has been found to have committed, a violation
274 of chapter 794, chapter 796, chapter 800, s. 827.071, or s.
275 847.0133, regardless of adjudication. Any employee of a district
276 school board who knowingly and willfully discloses such
277 information to an unauthorized person commits a misdemeanor of

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278 the second degree, punishable as provided in s. 775.082 or s.
279 775.083.

280 Section 7. This act shall take effect July 1, 2014.

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T I T L E A M E N D M E N T

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Remove everything before the enacting clause and insert:

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An act relating to child-on-child sexual abuse; reordering and

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amending s. 39.01, F.S.; replacing the definition of the term

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"alleged juvenile sexual offender" with a definition of the term

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"juvenile sexual offender"; deleting an age requirement from the

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definition of the term "child who has exhibited inappropriate

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sexual behavior"; amending s. 39.201, F.S.; requiring reports

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involving juvenile sexual abuse or a child who has exhibited

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inappropriate sexual behavior to be reported to the department's

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central abuse hotline; providing duties concerning such reports;

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deleting provisions concerning reports about children over a

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certain age; amending s. 39.307, F.S.; requiring the department

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to ensure that information describing a child's history of

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juvenile sexual abuse is included in the child's electronic

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record; requiring placement decisions to include certain

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considerations; conforming provisions to changes made by the

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act; amending ss. 39.0132, 39.302 and 985.04, F.S.; conforming

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provisions to changes made by the act; providing an effective

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date.