

1 A bill to be entitled
 2 An act relating to child welfare; amending s. 39.01,
 3 F.S.; expanding the definition of the term "harm" to
 4 include violations of certain motor vehicle laws that
 5 result in the death of, or injury to, a child under
 6 certain circumstances; amending s. 39.303, F.S.;
 7 expanding the types of reports that the Department of
 8 Children and Families must refer to Child Protection
 9 Teams; amending ss. 39.302, 39.521, and 39.6012, F.S.;
 10 conforming cross-references; providing an effective
 11 date.

13 Be It Enacted by the Legislature of the State of Florida:

15 Section 1. Subsections (8) through (38) of section 39.01,
 16 Florida Statutes, are renumbered as subsections (7) through
 17 (37), respectively, present subsection (7) is renumbered as
 18 subsection (38), and present subsection (35) is amended to read:

19 39.01 Definitions.—When used in this chapter, unless the
 20 context otherwise requires:

21 (34)~~(35)~~ "Harm" to a child's health or welfare can occur
 22 when a ~~any~~ person:

23 (a) Inflicts or allows to be inflicted upon the child
 24 physical, mental, or emotional injury. In determining whether
 25 harm has occurred, the following factors must be considered in

26 | evaluating any physical, mental, or emotional injury to a child:
27 | the age of the child; any prior history of injuries to the
28 | child; the location of the injury on the body of the child; the
29 | multiplicity of the injury; and the type of trauma inflicted.

30 | Such injury includes, but is not limited to:

- 31 | 1. Willful acts that produce the following specific
32 | injuries:
- 33 | a. Sprains, dislocations, or cartilage damage.
 - 34 | b. Bone or skull fractures.
 - 35 | c. Brain or spinal cord damage.
 - 36 | d. Intracranial hemorrhage or injury to other internal
37 | organs.
 - 38 | e. Asphyxiation, suffocation, or drowning.
 - 39 | f. Injury resulting from the use of a deadly weapon.
 - 40 | g. Burns or scalding.
 - 41 | h. Cuts, lacerations, punctures, or bites.
 - 42 | i. Permanent or temporary disfigurement.
 - 43 | j. Permanent or temporary loss or impairment of a body
44 | part or function.

45 |
46 | As used in this subparagraph, the term "willful" refers to the
47 | intent to perform an action, not to the intent to achieve a
48 | result or to cause an injury.

- 49 | 2. Purposely giving a child poison, alcohol, drugs, or
50 | other substances that substantially affect the child's behavior,

51 motor coordination, or judgment or that result in sickness or
52 internal injury. For the purposes of this subparagraph, the term
53 "drugs" means prescription drugs not prescribed for the child or
54 not administered as prescribed, and controlled substances as
55 outlined in Schedule I or Schedule II of s. 893.03.

56 3. Leaving a child without adult supervision or
57 arrangement appropriate for the child's age or mental or
58 physical condition, so that the child is unable to care for the
59 child's own needs or another's basic needs or is unable to
60 exercise good judgment in responding to any kind of physical or
61 emotional crisis.

62 4. Inappropriate or excessively harsh disciplinary action
63 that is likely to result in physical injury, mental injury as
64 defined in this section, or emotional injury. The significance
65 of any injury must be evaluated in light of the following
66 factors: the age of the child; any prior history of injuries to
67 the child; the location of the injury on the body of the child;
68 the multiplicity of the injury; and the type of trauma
69 inflicted. Corporal discipline may be considered excessive or
70 abusive when it results in any of the following or other similar
71 injuries:

- 72 a. Sprains, dislocations, or cartilage damage.
- 73 b. Bone or skull fractures.
- 74 c. Brain or spinal cord damage.
- 75 d. Intracranial hemorrhage or injury to other internal

76 | organs.

77 | e. Asphyxiation, suffocation, or drowning.

78 | f. Injury resulting from the use of a deadly weapon.

79 | g. Burns or scalding.

80 | h. Cuts, lacerations, punctures, or bites.

81 | i. Permanent or temporary disfigurement.

82 | j. Permanent or temporary loss or impairment of a body

83 | part or function.

84 | k. Significant bruises or welts.

85 | (b) Commits, or allows to be committed, sexual battery, as

86 | defined in chapter 794, or lewd or lascivious acts, as defined

87 | in chapter 800, against the child.

88 | (c) Allows, encourages, or forces the sexual exploitation

89 | of a child, which includes allowing, encouraging, or forcing a

90 | child to:

91 | 1. Solicit for or engage in prostitution; or

92 | 2. Engage in a sexual performance, as defined by chapter

93 | 827.

94 | (d) Exploits a child, or allows a child to be exploited,

95 | as provided in s. 450.151.

96 | (e) Abandons the child. Within the context of the

97 | definition of "harm," the term "abandoned the child" or

98 | "abandonment of the child" means a situation in which the parent

99 | or legal custodian of a child or, in the absence of a parent or

100 | legal custodian, the caregiver, while being able, has made no

101 significant contribution to the child's care and maintenance or
102 has failed to establish or maintain a substantial and positive
103 relationship with the child, or both. For purposes of this
104 paragraph, "establish or maintain a substantial and positive
105 relationship" includes, but is not limited to, frequent and
106 regular contact with the child through frequent and regular
107 visitation or frequent and regular communication to or with the
108 child, and the exercise of parental rights and responsibilities.
109 Marginal efforts and incidental or token visits or
110 communications are not sufficient to establish or maintain a
111 substantial and positive relationship with a child. The term
112 "abandoned" does not include a surrendered newborn infant as
113 described in s. 383.50, a child in need of services as defined
114 in chapter 984, or a family in need of services as defined in
115 chapter 984. The incarceration, repeated incarceration, or
116 extended incarceration of a parent, legal custodian, or
117 caregiver responsible for a child's welfare may support a
118 finding of abandonment.

119 (f) Neglects the child. Within the context of the
120 definition of "harm," the term "neglects the child" means that
121 the parent or other person responsible for the child's welfare
122 fails to supply the child with adequate food, clothing, shelter,
123 or health care, although financially able to do so or although
124 offered financial or other means to do so. However, a parent or
125 legal custodian who, by reason of the legitimate practice of

126 religious beliefs, does not provide specified medical treatment
127 for a child may not be considered abusive or neglectful for that
128 reason alone, but such an exception does not:

129 1. Eliminate the requirement that such a case be reported
130 to the department;

131 2. Prevent the department from investigating such a case;
132 or

133 3. Preclude a court from ordering, when the health of the
134 child requires it, the provision of medical services by a
135 physician, as defined in this section, or treatment by a duly
136 accredited practitioner who relies solely on spiritual means for
137 healing in accordance with the tenets and practices of a well-
138 recognized church or religious organization.

139 (g) Exposes a child to a controlled substance or alcohol.
140 Exposure to a controlled substance or alcohol is established by:

141 1. A test, administered at birth, which indicated that the
142 child's blood, urine, or meconium contained any amount of
143 alcohol or a controlled substance or metabolites of such
144 substances, the presence of which was not the result of medical
145 treatment administered to the mother or the newborn infant; or

146 2. Evidence of extensive, abusive, and chronic use of a
147 controlled substance or alcohol by a parent to the extent that
148 the parent's ability to provide supervision and care for the
149 child has been or is likely to be severely compromised.

150

151 As used in this paragraph, the term "controlled substance" means
152 prescription drugs not prescribed for the parent or not
153 administered as prescribed and controlled substances as outlined
154 in Schedule I or Schedule II of s. 893.03.

155 (h) Uses mechanical devices, unreasonable restraints, or
156 extended periods of isolation to control a child.

157 (i) Engages in violent behavior that demonstrates a wanton
158 disregard for the presence of a child and could reasonably
159 result in serious injury to the child.

160 (j) Negligently fails to protect a child in his or her
161 care from inflicted physical, mental, or sexual injury caused by
162 the acts of another.

163 (k) Has allowed a child's sibling to die as a result of
164 abuse, abandonment, or neglect.

165 (l) Makes the child unavailable for the purpose of
166 impeding or avoiding a protective investigation unless the court
167 determines that the parent, legal custodian, or caregiver was
168 fleeing from a situation involving domestic violence.

169 (m) Violates s. 316.613 or s. 316.614 and such violation
170 results in the death of the child or injury to the child that
171 requires treatment at a medical facility, if a physician
172 licensed under chapter 458 substantiates that the violation
173 caused the child's death or injury.

174 (n) Violates s. 316.6135 and such violation results in the
175 death of the child or injury to the child that requires

176 treatment at a medical facility, if a physician licensed under
177 chapter 458 substantiates that the violation caused the child's
178 death or injury.

179 Section 2. Paragraphs (j), (k), and (l) are added to
180 subsection (4) of section 39.303, Florida Statutes, to read:

181 39.303 Child Protection Teams and sexual abuse treatment
182 programs; services; eligible cases.—

183 (4) The child abuse, abandonment, and neglect reports that
184 must be referred by the department to Child Protection Teams of
185 the Department of Health for an assessment and other appropriate
186 available support services as set forth in subsection (3) must
187 include cases involving:

188 (j) A child who was not properly restrained in a motor
189 vehicle pursuant to s. 316.613 or s. 316.614 and such action
190 resulted in harm as defined in s. 39.01(34)(m).

191 (k) A child who was left unattended or unsupervised in a
192 motor vehicle pursuant to s. 316.6135 and such action resulted
193 in harm as defined in s. 39.01(34)(n).

194 (l) Reports from emergency room physicians.

195 Section 3. Subsection (1) of section 39.302, Florida
196 Statutes, is amended to read:

197 39.302 Protective investigations of institutional child
198 abuse, abandonment, or neglect.—

199 (1) The department shall conduct a child protective
200 investigation of each report of institutional child abuse,

201 abandonment, or neglect. Upon receipt of a report that alleges
202 that an employee or agent of the department, or any other entity
203 or person covered by s. 39.01(36) or (54) ~~s. 39.01(37) or (54)~~,
204 acting in an official capacity, has committed an act of child
205 abuse, abandonment, or neglect, the department shall initiate a
206 child protective investigation within the timeframe established
207 under s. 39.201(5) and notify the appropriate state attorney,
208 law enforcement agency, and licensing agency, which shall
209 immediately conduct a joint investigation, unless independent
210 investigations are more feasible. When conducting investigations
211 or having face-to-face interviews with the child, investigation
212 visits shall be unannounced unless it is determined by the
213 department or its agent that unannounced visits threaten the
214 safety of the child. If a facility is exempt from licensing, the
215 department shall inform the owner or operator of the facility of
216 the report. Each agency conducting a joint investigation is
217 entitled to full access to the information gathered by the
218 department in the course of the investigation. A protective
219 investigation must include an interview with the child's parent
220 or legal guardian. The department shall make a full written
221 report to the state attorney within 3 working days after making
222 the oral report. A criminal investigation shall be coordinated,
223 whenever possible, with the child protective investigation of
224 the department. Any interested person who has information
225 regarding the offenses described in this subsection may forward

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226 a statement to the state attorney as to whether prosecution is
227 warranted and appropriate. Within 15 days after the completion
228 of the investigation, the state attorney shall report the
229 findings to the department and shall include in the report a
230 determination of whether or not prosecution is justified and
231 appropriate in view of the circumstances of the specific case.

232 Section 4. Paragraph (c) of subsection (1) of section
233 39.521, Florida Statutes, is amended to read:

234 39.521 Disposition hearings; powers of disposition.—

235 (1) A disposition hearing shall be conducted by the court,
236 if the court finds that the facts alleged in the petition for
237 dependency were proven in the adjudicatory hearing, or if the
238 parents or legal custodians have consented to the finding of
239 dependency or admitted the allegations in the petition, have
240 failed to appear for the arraignment hearing after proper
241 notice, or have not been located despite a diligent search
242 having been conducted.

243 (c) When any child is adjudicated by a court to be
244 dependent, the court having jurisdiction of the child has the
245 power by order to:

246 1. Require the parent and, when appropriate, the legal
247 guardian or the child to participate in treatment and services
248 identified as necessary. The court may require the person who
249 has custody or who is requesting custody of the child to submit
250 to a mental health or substance abuse disorder assessment or

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251 evaluation. The order may be made only upon good cause shown and
252 pursuant to notice and procedural requirements provided under
253 the Florida Rules of Juvenile Procedure. The mental health
254 assessment or evaluation must be administered by a qualified
255 professional as defined in s. 39.01, and the substance abuse
256 assessment or evaluation must be administered by a qualified
257 professional as defined in s. 397.311. The court may also
258 require such person to participate in and comply with treatment
259 and services identified as necessary, including, when
260 appropriate and available, participation in and compliance with
261 a mental health court program established under chapter 394 or a
262 treatment-based drug court program established under s. 397.334.
263 Adjudication of a child as dependent based upon evidence of harm
264 as defined in s. 39.01(34)(g) ~~s. 39.01(35)(g)~~ demonstrates good
265 cause, and the court shall require the parent whose actions
266 caused the harm to submit to a substance abuse disorder
267 assessment or evaluation and to participate and comply with
268 treatment and services identified in the assessment or
269 evaluation as being necessary. In addition to supervision by the
270 department, the court, including the mental health court program
271 or the treatment-based drug court program, may oversee the
272 progress and compliance with treatment by a person who has
273 custody or is requesting custody of the child. The court may
274 impose appropriate available sanctions for noncompliance upon a
275 person who has custody or is requesting custody of the child or

276 make a finding of noncompliance for consideration in determining
277 whether an alternative placement of the child is in the child's
278 best interests. Any order entered under this subparagraph may be
279 made only upon good cause shown. This subparagraph does not
280 authorize placement of a child with a person seeking custody of
281 the child, other than the child's parent or legal custodian, who
282 requires mental health or substance abuse disorder treatment.

283 2. Require, if the court deems necessary, the parties to
284 participate in dependency mediation.

285 3. Require placement of the child either under the
286 protective supervision of an authorized agent of the department
287 in the home of one or both of the child's parents or in the home
288 of a relative of the child or another adult approved by the
289 court, or in the custody of the department. Protective
290 supervision continues until the court terminates it or until the
291 child reaches the age of 18, whichever date is first. Protective
292 supervision shall be terminated by the court whenever the court
293 determines that permanency has been achieved for the child,
294 whether with a parent, another relative, or a legal custodian,
295 and that protective supervision is no longer needed. The
296 termination of supervision may be with or without retaining
297 jurisdiction, at the court's discretion, and shall in either
298 case be considered a permanency option for the child. The order
299 terminating supervision by the department must set forth the
300 powers of the custodian of the child and include the powers

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301 ordinarily granted to a guardian of the person of a minor unless
302 otherwise specified. Upon the court's termination of supervision
303 by the department, further judicial reviews are not required if
304 permanency has been established for the child.

305 4. Determine whether the child has a strong attachment to
306 the prospective permanent guardian and whether such guardian has
307 a strong commitment to permanently caring for the child.

308 Section 5. Paragraph (c) of subsection (1) of section
309 39.6012, Florida Statutes, is amended to read:

310 39.6012 Case plan tasks; services.—

311 (1) The services to be provided to the parent and the
312 tasks that must be completed are subject to the following:

313 (c) If there is evidence of harm as defined in s.
314 39.01(34)(g) ~~s. 39.01(35)(g)~~, the case plan must include as a
315 required task for the parent whose actions caused the harm that
316 the parent submit to a substance abuse disorder assessment or
317 evaluation and participate and comply with treatment and
318 services identified in the assessment or evaluation as being
319 necessary.

320 Section 6. This act shall take effect July 1, 2020.