

1                                   A bill to be entitled  
 2           An act relating to harm to children; amending s.  
 3           39.01, F.S.; expanding the definition of the term  
 4           "harm" to include violations of certain motor vehicle  
 5           laws that result in the death of or injury to a child  
 6           under 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) ~~s. 39.01(37)~~ or (54), acting  
204 in an official capacity, has committed an act of child abuse,  
205 abandonment, or neglect, the department shall initiate a child  
206 protective investigation within the timeframe established under  
207 s. 39.201(5) and notify the appropriate state attorney, law  
208 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

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

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

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, 2021.