

THE FLORIDA SENATE
2012 SUMMARY OF LEGISLATION PASSED
Committee on Criminal Justice

CS/CS/CS/HB 1355 — Protection of Vulnerable Persons

by Appropriations Committee; Health and Human Services Committee; Judiciary Committee; and Rep. Dorworth and others (CS/CS/SB 1816 by Budget Subcommittee on Criminal and Civil Justice Appropriations; Criminal Justice Committee; and Senators Benacquisto and Sachs)

This bill addresses child abuse, neglect and abandonment, relocation assistance for sexual battery victims, and assistance for child abuse victims by doing the following:

- Requires reporting to the Department of Children and Family Services by any person who knows, or who has reasonable cause to suspect, that a child:
 - Is abused by an adult other than a parent, legal custodian, caregiver, or other person responsible for the child's welfare.
 - Is the victim of childhood sexual abuse or the victim of a known or suspected juvenile sexual offender.
- Requires that each report of known or suspected child abuse by an adult other than a parent, legal custodian, caregiver, or other person responsible for the child's welfare be made immediately to the Department of Children and Family Services' central abuse hotline. Such reports may be made on the single statewide toll-free telephone number or via fax, web-based chat, or web-based report. Such reports or calls shall be immediately electronically transferred to the appropriate county sheriff's office by the central abuse hotline.
- Requires that reports involving a known or suspected juvenile sexual offender or a child who has exhibited inappropriate sexual behavior be made and received by the Department of Children and Family Services, and provides the following additional requirements:
 - The department shall determine the age of the alleged offender, if known.
 - If the alleged offender is 12 years of age or younger, the central abuse hotline shall immediately electronically transfer the report or call to the county sheriff's office. The department shall conduct an assessment and assist the family in receiving appropriate services pursuant to s. 39.307, F.S. (reports on child-on-child sexual abuse) and send a written report of the allegation to the appropriate county sheriff's office within 48 hours after the initial report is made to the central abuse hotline.
 - If the alleged offender is 13 years of age or older, the central abuse hotline shall immediately electronically transfer the report or call to the appropriate county sheriff's office and send a written report to the appropriate county sheriff's office within 48 hours after the initial report to the central abuse hotline.
- Authorizes reporting by web-based chat.
- Requires the Department of Children and Family Services to:
 - Update the web form used for reporting child abuse, abandonment, or neglect to include specified information and capabilities.
 - Conduct a feasibility study on using text and short message service formats to receive and process reports of child abuse, etc.

- Promote public awareness of the central abuse hotline through community partner organization and public service campaigns.
 - Collect and analyze reports of child abuse and sexual abuse reported from or occurring on the campus of any Florida College System institution, state university, or nonpublic college, university, or school, as defined in s. 1001.21, F.S., or s. 1005.02, F.S.
- Provides that for state fiscal year 2012-2013, 47 full-time equivalent positions, with associated salary rate of 1,513,326 are authorized and the sums of \$2,164,016 in recurring funds and \$281,000 in nonrecurring funds are appropriated from the General Revenue Fund to the Department of Children and Family Services for additional costs associated with the changes in mandatory reporting of child abuse, abandonment, or neglect pursuant to s. 39.201, F.S.
- Changes from a first degree misdemeanor to a third degree felony the current offense of knowing and willful failure to report known or suspected child abuse, etc., and authorizes repeat offender sanctions under s. 775.084, F.S., if applicable.
- Punishes with a \$1 million fine for each failure a Florida College System institution, state university, or nonpublic college, university, or school, as defined in s. 1000.21, F.S., or s. 1005.02, F.S., whose:
 - Administrators knowingly and willfully, upon receiving information from faculty, staff, or other institution employees, fail to report known or suspected child abuse, abandonment, or neglect committed on school property or during a school-sponsored event or function, or who knowingly and willfully prevent another person from doing so.
 - Law enforcement agency fails to report known or suspected child abuse, etc., committed on school property or during a school-sponsored event or function.
- Specifies that the fine shall be assessed as follows:
 - A Florida College System institution subject to a fine shall be assessed by the State Board of Education.
 - A state university subject to a fine shall be assessed by the Board of Governors.
 - A nonpublic college, university, or school subject to a fine shall be assessed by the Commission for Independent Education.
- Provides that the university, college, etc., has the right to challenge the determination of a violation in an administrative hearing; however, if it is found that actual knowledge and information of known or suspected child abuse was in fact received by the institution's administrators and this information was not reported, a presumption of a knowing and willful act will be established.
- Directs the Department of Education to require teachers in grades 1-12 to participate in continuing education training provided by the Department of Children and Family Services on identifying and reporting child abuse and neglect.
- Reclassifies the felony or misdemeanor degree of any violation of ch. 796, F.S., other than s. 796.03, F.S., or s. 796.035, F.S., in which a minor engages in prostitution, lewdness, assignation, sexual conduct, or other conduct as defined in or prohibited by ch. 796, F.S., but the minor is not the person charged with the violation.

- Provides that relocation payments for a domestic violence claim shall be denied if the Department of Legal Affairs has previously approved or paid out a sexual battery relocation claim under s. 960.199, F.S., to the same victim regarding the same incident.
- Provides criteria for a victim of sexual battery to receive relocation payments from the Department of Legal Affairs and provides that relocation payments for a sexual battery claim shall be denied if the department has previously approved or paid out a domestic violence relocation claim under s. 960.199, F.S., to the same victim regarding the same incident.
- Provides that for state fiscal year 2012-13, \$1.5 million in nonrecurring funds is appropriated from General Revenue to the Department of Legal Affairs for sexual battery victim relocation as provided in s. 960.199, F.S.
- Amends s. 827.03, F.S., which punishes child abuse and neglect, to:
 - Define the term “mental injury,” a definition which is relevant to criminal penalties under that statute for certain acts of child abuse that may result in a mental injury to a child. “Mental injury” is defined as an injury to the intellectual or psychological capacity of a child as evidenced by a discernible and substantial impairment in the ability of the child to function within the normal range of performance and behavior as supported by expert testimony. (This new definition is the same as the definition of mental injury in s. 39.01, F.S., applicable to dependency cases, except that the definition in s. 39.01, F.S., does not include the language relating to expert testimony.)
 - Specify that a physician may not provide expert testimony in a criminal child abuse case unless the physician is a physician licensed under ch. 458, F.S., or ch. 459, F.S., or has obtained certification as an expert witness pursuant to s. 458.3175, F.S.
 - Specify that a physician may not provide expert testimony in a criminal child abuse case regarding mental injury unless the physician is a physician licensed under ch. 458, F.S., or ch. 459, F.S., who has completed an accredited residency in psychiatry or has obtained certification as an expert witness pursuant to s. 458.3175, F.S.
 - Specify that a psychologist may not give expert testimony in a criminal child abuse case regarding mental injury unless the psychologist is licensed under ch. 490, F.S.
 - Specify that the expert testimony requirements apply only to criminal child abuse cases and not to family court or dependency court cases.
- Amends s. 960.03, F.S., by modifying the definition of “crime” and “victim” as used in the Florida Crimes Compensation Act to include any child abuse offense that results in mental injury to a minor who was not physically injured by the criminal act. As a result, the bill expands eligibility for certain types of assistance available under the act to victims physically injured by child abuse to include victims who are mentally injured by child abuse.

If approved by the Governor, these provisions take effect October 1, 2012.

Vote: Senate 35-4; House 117-0