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1998 Legislature CS for CS for SB 1024, 1st Engrossed (ntc)

1
2 An act relating to false reports of abuse or
3 neglect of a child or of abuse, neglect, or
4 exploitation of a disabled adult or elderly
5 person; amending s. 415.107, F.S.; authorizing
6 the Department of Children and Family Services
7 to provide the identity of a person reporting
8 adult abuse, neglect, or exploitation to a law
9 enforcement agency; amending s. 415.111, F.S.;
10 providing for investigation by local law
11 enforcement agencies of possible false reports;
12 providing for law enforcement entities to
13 handle certain reports of abuse, neglect, or
14 exploitation during the pendency of such an
15 investigation; providing procedures; providing
16 for law enforcement agencies to refer certain
17 reports to the state attorney for prosecution;
18 specifying the penalty for knowingly and
19 willfully making or advising another to make a
20 false report; providing for the Department of
21 Children and Family Services to report annually
22 to the Legislature the number of reports
23 referred to law enforcement agencies for
24 investigation of possible false reports;
25 providing for state attorneys to report
26 annually to the Legislature the number of
27 complaints that have resulted in informations
28 or indictments; amending s. 415.1113, F.S.;
29 increasing the maximum amount of the
30 administrative fine that may be imposed for
31 knowingly and willfully making or counseling

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1 another to make a false report; amending s.
2 415.513, F.S.; deleting the requirement for the
3 Department of Children and Family Services to
4 provide information to the state attorney;
5 providing for the Department of Children and
6 Family Services to report annually to the
7 Legislature the number of reports referred to
8 law enforcement agencies; providing for
9 investigation by local law enforcement agencies
10 of possible false reports; providing for law
11 enforcement agencies to refer certain reports
12 to the state attorney for prosecution;
13 providing for law enforcement entities to
14 handle certain reports of abuse or neglect
15 during the pendency of such an investigation;
16 providing procedures; specifying the penalty
17 for knowingly and willfully making, or advising
18 another to make, a false report; providing for
19 state attorneys to report annually to the
20 Legislature the number of complaints that have
21 resulted in informations or indictments;
22 amending s. 415.5131, F.S.; increasing the
23 maximum amount of the administrative fine that
24 may be imposed for knowingly and willfully
25 making, or counseling another to make, a false
26 report; providing an effective date.

27
28 Be It Enacted by the Legislature of the State of Florida:

29
30 Section 1. Subsection (6) of section 415.107, Florida
31 Statutes, is amended to read:

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1 415.107 Confidentiality of reports and records.--
2 (6) The identity of any person reporting adult abuse,
3 neglect, or exploitation may not be released, without that
4 person's written consent, to any person other than employees
5 of the department responsible for adult protective services,
6 the central abuse registry and tracking system, or the
7 appropriate state attorney or law enforcement agency. This
8 subsection grants protection only for the person who reported
9 the adult abuse, neglect, or exploitation and protects only
10 the fact that the person is the reporter. This subsection does
11 not prohibit the subpoena of a person reporting adult abuse,
12 neglect, or exploitation when deemed necessary by the state
13 attorney or the department to protect a disabled adult or an
14 elderly person who is the subject of a report, if the fact
15 that the person made the report is not disclosed.

16 Section 2. Present subsections (4) and (5) of section
17 415.111, Florida Statutes, are redesignated as subsections (5)
18 and (6), respectively, and amended, and a new subsection (4)
19 is added to that section, to read:

20 415.111 Criminal penalties.--

21 (4) If the department or its authorized agent has
22 determined after its investigation that a report is false, the
23 department shall, with the consent of the alleged perpetrator,
24 refer the reports to the local law enforcement agency having
25 jurisdiction for an investigation to determine whether
26 sufficient evidence exists to refer the case for prosecution
27 for filing a false report as defined in s. 415.102. During the
28 pendency of the investigation by the local law enforcement
29 agency, the department must notify the local law enforcement
30 agency of and the local law enforcement agency must respond to
31 all subsequent reports concerning the same disabled adult or

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1 elderly person in accordance with s. 415.104 or s. 415.1045.
2 If the law enforcement agency believes that there are
3 indicators of abuse, neglect, or exploitation, it must
4 immediately notify the department, which must assure the
5 safety of the disabled adult or elderly person. If the law
6 enforcement agency finds sufficient evidence for prosecution
7 for filing a false report, it must refer the case to the
8 appropriate state attorney for prosecution.

9 (5)~~(4)~~ A person who knowingly and willfully makes a
10 false report of abuse, neglect, or exploitation of a disabled
11 adult or an elderly person, or a person who advises another to
12 make a false report, commits a felony of the third ~~misdemeanor~~
13 ~~of the second~~ degree, punishable as provided in s. 775.082 or
14 s. 775.083.

15 (a) The department shall establish procedures for
16 determining whether a false report of abuse, neglect, or
17 exploitation of a disabled adult or an elderly person has been
18 made and for submitting all identifying information relating
19 to such a false report to the local law enforcement agency as
20 provided in this subsection and shall report annually to the
21 Legislature the number of reports referred ~~state attorney for~~
22 ~~prosecution.~~

23 (b) Anyone making a report who is acting in good faith
24 is immune from any liability under this subsection.

25 (6)~~(5)~~ Each state attorney shall establish and publish
26 procedures to facilitate the prosecution of persons under this
27 section and shall report to the Legislature annually the
28 number of complaints that have resulted in the filing of an
29 information or indictment under this section.

30 Section 3. Subsection (1) of section 415.1113, Florida
31 Statutes, is amended to read:

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1 415.1113 Administrative fines for false report of
2 abuse, neglect, or exploitation of a disabled adult or an
3 elderly person.--

4 (1) In addition to any other penalty authorized by
5 this section, chapter 120, or other law, the department may
6 impose a fine, not to exceed ~~\$10,000~~\$1,000 for each
7 violation, upon a person who knowingly and willfully makes a
8 false report of abuse, neglect, or exploitation of a disabled
9 adult or an elderly person, or a person who counsels another
10 to make a false report.

11 Section 4. Subsection (3) of section 415.513, Florida
12 Statutes, is amended, and present subsections (4) and (5) of
13 that section are redesignated as subsections (5) and (6),
14 respectively, and amended, and a new subsection (4) is added
15 to that section, to read:

16 415.513 Penalties relating to abuse reporting.--

17 (3) The department shall establish procedures for
18 determining whether a false report of child abuse or neglect
19 has been made and for submitting all identifying information
20 relating to such a report to the appropriate law enforcement
21 agency and shall report annually to the Legislature the number
22 of reports referred the state attorney for prosecution.

23 (4) If the department or its authorized agent has
24 determined after its investigation that a report is false, the
25 department shall, with the consent of the alleged perpetrator,
26 refer the report to the local law enforcement agency having
27 jurisdiction for an investigation to determine whether
28 sufficient evidence exists to refer the case for prosecution
29 for filing a false report as defined in s. 415.503. During the
30 pendency of the investigation by the local law enforcement
31 agency, the department must notify the local law enforcement

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1 agency of and the local law enforcement agency must respond to
2 all subsequent reports concerning children in that same family
3 in accordance with s. 415.505. If the law enforcement agency
4 believes that there are indicators of abuse or neglect, it
5 must immediately notify the department, which must assure the
6 safety of the children. If the law enforcement agency finds
7 sufficient evidence for prosecution for filing a false report,
8 it must refer the case to the appropriate state attorney for
9 prosecution.

10 (5)(4) A person who knowingly and willfully makes a
11 false report of child abuse or neglect, or who advises another
12 to make a false report, is guilty of a felony of the third
13 ~~misdemeanor of the second~~ degree, punishable as provided in s.
14 775.082 or s. 775.083. Anyone making a report who is acting in
15 good faith is immune from any liability under this subsection.

16 (6)(5) Each state attorney shall establish and publish
17 procedures to facilitate the prosecution of persons under this
18 section, and shall report to the Legislature annually the
19 number of complaints that have resulted in the filing of an
20 information or indictment under this section.

21 Section 5. Subsection (1) of section 415.5131, Florida
22 Statutes, is amended to read:

23 415.5131 Administrative fines for false report of
24 abuse or neglect of a child.--

25 (1) In addition to any other penalty authorized by
26 this section, chapter 120, or other law, the department may
27 impose a fine, not to exceed \$10,000~~\$1,000~~ for each
28 violation, upon a person who knowingly and willfully makes a
29 false report of abuse or neglect of a child, or a person who
30 counsels another to make a false report.

31 Section 6. This act shall take effect July 1, 1998.