
SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based only on the provisions contained in the legislation as of the latest date listed below.)

Date: March 17, 1998 Revised: _____

Subject: Juvenile Sexual Offenders

	<u>Analyst</u>	<u>Staff Director</u>	<u>Reference</u>	<u>Action</u>
1.	<u>Dugger</u>	<u>Miller</u>	<u>CJ</u>	<u>Favorable/CS</u>
2.	<u>Barnes</u>	<u>Whiddon</u>	<u>CF</u>	<u>Favorable/CS</u>
3.	_____	_____	<u>WM</u>	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____

I. Summary:

Currently, there are no statutorily defined standards for juvenile sexual offender therapy and practice. In 1995, the Legislature requested that the Task Force on Juvenile Sexual Offenders and their Victims study and make recommendations for standards relating to specially licensed professionals who work with juvenile sexual offenders and their victims.

The CS for CS would require the Department of Juvenile Justice (DJJ) to develop standards specific to juvenile sexual offender programs operated by DJJ in order to inspect and evaluate these programs. In addition, the CS for CS would require a person who holds himself or herself out as a juvenile sexual offender therapist to be licensed and to meet the minimum requirements to practice juvenile sexual offender therapy in Florida. The CS for CS would also make it a first degree misdemeanor for any person to practice as a juvenile sexual offender therapist without proper licensure and qualifications.

The CS for CS would also authorize state attorneys to establish a sexual abuse intervention network for the purpose of identifying, investigating, prosecuting, treating, and preventing sexual abuse, with special emphasis on juvenile sexual offenders and victims of sexual abuse. Subject to specific appropriation, these intervention networks would be eligible to receive grants from the Attorney General to be used for training, treatment, aftercare, evaluation, public awareness, and other identified community needs. In awarding these grants, the Attorney General must collaborate with the Department of Children and Family Services (DCFS) and DJJ.

In addition, the CS for CS would require the Criminal Justice Standards and Training Commission within the Florida Department of Law Enforcement (FDLE) to incorporate instruction on juvenile sexual offender investigation into the course curriculum required for law enforcement officers to

obtain initial certification and into curriculum required for continuous employment or appointment as a law enforcement officer.

Finally, the CS for CS would require the DJJ and the DCFS to notify school superintendents about the presence of a child in the delinquency system or a child in the dependency system who has a known history of sexual behavior with other juveniles; who is a juvenile sexual offender as defined in s. 415.50165, F.S.; or who has plead guilty or nolo contendere, or has been found to have committed certain enumerated sexual offenses, regardless of adjudication. A district school board employee who knowingly and willfully discloses this information to an unauthorized person under the CS for CS would commit a second degree misdemeanor.

This CS for CS would substantially amend or create the following sections of the Florida Statutes: 39.411, 490.012, 490.0145, 491.012, 491.0144, 943.17291, 943.17295, 985.04, and 985.308.

II. Present Situation:

In 1994, the Legislature created the Task Force on Juvenile Sexual Offenders and Victims of Juvenile Sexual Abuse and Crimes. The task force was required to make findings and recommendations on this subject. In 1995, the Legislature expanded the task force's duties to include studying and making recommendations for standards relating to specially licensed professionals who work with juvenile sexual offenders and their victims. s. 985.403, F.S.

Currently, there are no statutorily defined standards for juvenile sexual offender therapy and practice. There is no special designation or qualifications for a licensed professional who holds himself or herself out to be a juvenile sexual offender therapist.

The Legislature has directed the DJJ to develop adequate commitment programs that treat juvenile sexual offenders. s. 985.308, F.S. The department is required to conduct inspections and design quality assurance activities for each existing juvenile sexual offender program. According to DJJ, there are currently two residential sexual offender commitment programs (57 beds) and about 193 day-treatment sexual offender slots. The Charter Behavior Health Systems and Brown Schools of Florida are both long-term residential programs for males who have been diagnosed with having severe sexual dysfunction.

Juvenile records are considered confidential under s. 985.04, F.S. Current law generally prohibits the release of these records, except to certain authorized personnel involved in the juvenile justice system, including the following: designated court personnel; the DJJ and its designees; the Department of Corrections; the Parole Commission; the Juvenile Justice Advisory Board; law enforcement agents; school superintendents and their designees; and authorized treatment providers.

Section 985.04(3), F.S., requires the sheriff, the police chief, and the district school superintendent of each county to enter into an interagency agreement with the DJJ for the purpose of sharing information about juvenile offenders. The agreement must specify the conditions by

which criminal history information will be made available to authorized school personnel and, in turn, by which school records will be made available to authorized department personnel.

School superintendents are also required to receive otherwise confidential information about a child under s. 985.04(7), F.S., when a law enforcement officer takes a child into custody for an alleged delinquent act that would be a felony if committed by an adult or for an alleged crime of violence. Superintendents must also receive such information from the state attorney when the child is formally charged with a felony or a delinquent act that would be a felony if committed by an adult. The superintendent then has 48 hours after receiving the information to disclose it to the school principal, who then discloses it to the child's teachers.

Just as information about children in the juvenile justice system is generally confidential, so too is information about children in the dependency system under s. 39.411, F.S. Otherwise confidential information may be disclosed to authorized personnel of the DCFS, the courts, correctional probation officers, and law enforcement agents, among others.

The existing law does not expressly require DJJ or DCFS to share information with school superintendents about children who have a history of sexual behavior. An "alleged juvenile sexual offender" is currently defined in s. 415.50165, F.S., as:

- ▶ A juvenile 12 years of age or younger who is alleged to have committed a violation of ch. 794, F.S. (sexual battery), ch. 796, F.S. (prostitution), ch. 800, F.S. (lewd, lascivious, or indecent assault or act upon a child), ch. 827.071, F.S. (sexual performance), or ch. 847.0133, F.S. (showing obscene material to a child), or
- ▶ A juvenile who is alleged to have committed a violation of law or delinquent act involving "juvenile sexual abuse," which is also defined under this section.

All law enforcement officers are required to be certified by the Criminal Justice Standards and Training Commission (CJSTC) within the FDLE pursuant to ss. 943.12 and 943.13, F.S. According to CJSTC staff, the basic recruit curriculum is designed to provide training for entry level "line" officers. Basic instruction on juvenile sex crimes and conducting such investigations is currently incorporated in the current basic recruit training curriculum.

CJSTC also provides advanced training courses beyond the basic training for those law enforcement officers wanting to become eligible for salary incentives. CJSTC also provides advanced specialized topics courses used in training experienced law enforcement officers. The CJSTC estimates that about 5 percent of all law enforcement officers in the state are designated as sex crimes investigators.

Section 943.17, F.S., requires the CJSTC by rule, to design, implement, maintain, evaluate, and revise job-related curricula and performance standards for basic recruit, advanced, and career development training programs and courses. CJSTC must also develop a methodology to assess

the relevance of the subject matter to the job of law enforcement and measure student performance and instructor competency.

Chapter 490, F.S., provides for the regulation of the practice of psychology by the Board of Psychology within the Department of Health (DOH). This chapter defines the practice of psychology and establishes practice standards which are enforced by the board and the department. The board is authorized to establish by rule qualifications for licensed psychologists. This chapter also prescribes criminal penalties, disciplinary actions, and certain exemptions.

Chapter 491, F.S., provides for the regulation of the practice of psychotherapy by clinical social workers, marriage and family therapists, and mental health counselors by the Board of Clinical Social Work, Marriage and Family Therapy, and Mental Health Counseling within the DOH. This chapter provides definitions of practice for these professions regulated by the board. This chapter authorizes the board to establish by rule qualifications for licensed psychotherapists under its regulatory jurisdiction. This chapter also prescribes criminal penalties, disciplinary actions, and certain exemptions.

III. Effect of Proposed Changes:

The CS for CS would codify many of the recommendations of the Task Force on Juvenile Sexual Offenders and their Victims. It would require DJJ to develop standards specific to juvenile sexual offender programs for the purpose of inspecting and conducting quality assurance activities to determine whether the program complies with the department's standards.

The CS for CS would make it a first degree misdemeanor under ss. 490.012 and 491.012, F.S., for a person, after October 1, 2000, to practice juvenile sexual offender therapy in Florida for compensation, unless such person has been licensed under ch. 490 or ch. 491, F.S., and has met certain specified qualifications to be a juvenile sexual offender therapist. Persons working as juvenile sex offender therapists in programs operated by or contracted to DJJ or the DCFS would be exempt from licensing requirements if the program employs a licensed professional who supervises the treatment services.

The CS for CS would also authorize any state attorney to establish a sexual abuse intervention network among numerous enumerated entities for the purpose of identifying, investigating, prosecuting, treating, and preventing sexual abuse with emphasis on juvenile sexual offenders and their victims. Enumerated entities include investigators, state attorneys, judges, public defenders, guardian ad litem, DJJ, and DCFS personnel.

The CS for CS would also authorize the Office of the Attorney General in collaboration with the DJJ and the DCF, subject to specific appropriation, to award grants to the networks for the purpose of providing training, treatment, aftercare, evaluation, public awareness, and other specified community needs that the network identifies. The CS for CS also requires the Department of Legal Affairs' Office of the Attorney General, in collaboration with DJJ and DCFS, to establish by rule minimum standards for each respective department for residential and

day treatment juvenile sexual offender programs funded under this section. The CS for CS specifies that the Department of Legal Affairs may adopt rules necessary to award grants under s. 985.308, F.S.

In addition, the CS for CS would require the Criminal Justice Standards and Training Commission within the FDLE to incorporate instruction on juvenile sexual offender investigation into the course curriculum required for law enforcement officers to obtain initial certification. The commission would also be required to incorporate the subject of sexual abuse and assault investigation, with an emphasis on cases involving child victims or juvenile offenders, into the curriculum required for continuous employment or appointment as a law enforcement officer.

Finally, the CS for CS would require the DJJ and the DCFS to notify school superintendents about the presence of a child in the delinquency system or a child in the dependency system who has a known history of sexual behavior with other juveniles; who is a juvenile sexual offender as defined in s. 415.50165, F.S.; or who has plead guilty or nolo contendere, or has been found to have committed certain sexual offenses, regardless of adjudication. The enumerated offenses include sexual battery, lewd and lascivious assault, prostitution, sexual performance, and displaying obscene materials to children. A district school board employee who knowingly and willfully discloses this information to an unauthorized person under the CS for CS would commit a second degree misdemeanor.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

There could be an indeterminate cost to therapists associated with becoming designated as a juvenile sexual offender therapist.

C. Government Sector Impact:

FDLE estimates that it would cost between \$15,000 to \$20,000 for development of new courses as required in the CS.

VI. Technical Deficiencies:

None.

VII. Related Issues:

The Criminal Justice Standards and Training Commission (FDLE) establishes the curriculum for the training and certification of law enforcement officers. As part of this training curriculum, there are currently courses on investigation which consist of procedures and practices for investigating and preserving the crime scene. Course work and instruction cover, among other areas, sexual offenses, victims, and offenders.

According to the commission, requiring a mandate in statute that the commission require course work already being provided may necessitate unnecessary changes in the training curriculum for the initial certification of law enforcement officers. The commission believes that requiring specialized training in the investigation of juvenile sexual offenses would not be useful for the vast majority of law enforcement officers who are not assigned to that area. However, it would be appropriate to require specific training on the investigation of crimes involving sex offenses for officers either currently assigned or who will be assigned to such investigations.

VIII. Amendments:

None.