

By the Committees on Children, Families and Seniors, Criminal Justice and Senator McKay

300-1945-98

1 A bill to be entitled
2 An act relating to juvenile sexual offenders;
3 amending s. 39.411, F.S.; requiring that the
4 Department of Children and Family Services
5 notify the school superintendent of any
6 juvenile who has a known history of sexual
7 behavior with other juveniles or who has been
8 convicted of certain specified sexual offenses;
9 providing that it is a second-degree
10 misdemeanor for a school district employee to
11 disclose such information to an unauthorized
12 person; amending s. 490.012, F.S.; prohibiting
13 the unlicensed practice of juvenile sexual
14 offender therapy for compensation; providing an
15 exception; creating s. 490.0145, F.S.;
16 providing that only certain persons licensed
17 under ch. 490, F.S., relating to psychological
18 services, or ch. 491, F.S., relating to
19 clinical, counseling, and psychotherapy
20 services, may hold themselves out as juvenile
21 sexual offender therapists; requiring the Board
22 of Psychology to require training and
23 coursework for juvenile sexual offender
24 therapists; amending s. 491.012, F.S.; defining
25 the offense of the unlawful use of the term
26 "juvenile sexual offender therapist," and
27 providing penalties therefor; prohibiting the
28 unlicensed practice of juvenile sexual offender
29 therapy for compensation; providing an
30 exception; creating s. 491.0144, F.S.;
31 providing for qualifications for licensure as a

1 juvenile sexual offender therapist under ch.
2 491, F.S., relating to clinical, counseling,
3 and psychotherapy services; creating ss.
4 943.17291, 943.17295, F.S.; requiring that the
5 Criminal Justice Standards and Training
6 Commission incorporate instruction in
7 investigating juvenile sexual offenders into
8 the course curriculum for law enforcement
9 officers; amending s. 985.04, F.S.; requiring
10 that the Department of Juvenile Justice notify
11 the school superintendent of any juvenile who
12 has a known history of sexual behavior with
13 other juveniles or who has been convicted of
14 certain sexual offenses; providing that it is a
15 second-degree misdemeanor for a school district
16 employee to disclose such information to an
17 unauthorized person; amending s. 985.308, F.S.;
18 requiring that the Department of Juvenile
19 Justice inspect offender commitment programs
20 operated by the department based on specified
21 standards; authorizing any state attorney to
22 establish a sexual abuse intervention network;
23 providing for membership and prescribing duties
24 of such network; requiring the Office of the
25 Attorney General in collaboration with the
26 Department of Children and Family Services and
27 the Department of Juvenile Justice to award
28 grants to sexual abuse intervention networks;
29 specifying criteria for grant awards; requiring
30 the Office of the Attorney General, in
31 collaboration with the Department of Juvenile

1 Justice and the Department of Children and
2 Family Services, to establish minimum standards
3 for juvenile sex offender day treatment and
4 residential treatment programs funded pursuant
5 to specified provisions; providing rulemaking
6 authority for the Department of Legal Affairs;
7 deleting rulemaking authority for the
8 Department of Juvenile Justice; providing an
9 effective date.

10

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

12

13 Section 1. Subsection (4) of section 39.411, Florida
14 Statutes, is amended to read:

15 39.411 Oaths, records, and confidential information.--

16 (4)(a) All information obtained pursuant to this part
17 in the discharge of official duty by any judge, employee of
18 the court, authorized agent of the department, correctional
19 probation officer, or law enforcement agent is ~~shall be~~
20 confidential and exempt from ~~the provisions of~~ s. 119.07(1)
21 and may ~~shall~~ not be disclosed to anyone other than the
22 authorized personnel of the court, the department and its
23 designees, correctional probation officers, law enforcement
24 agents, and others entitled under this chapter to receive that
25 information, except upon order of the court.

26 (b) The department shall disclose to the school
27 superintendent the presence of any child in the care and
28 custody or under the jurisdiction or supervision of the
29 department who has a known history of sexual behavior with
30 other juveniles; is an alleged juvenile sex offender, as
31 defined in s. 415.50165; or has pled guilty or nolo contendere

1 to, or has been found to have committed, a violation of
2 chapter 794, chapter 796, chapter 800, s. 827.071, or s.
3 847.0133, regardless of adjudication. Any employee of a
4 district school board who knowingly and willfully discloses
5 such information to an unauthorized person commits a
6 misdemeanor of the second degree, punishable as provided in s.
7 775.082 or s. 775.083.

8 Section 2. Subsection (8) is added to section 490.012,
9 Florida Statutes, to read:

10 490.012 Violations; penalties; injunction.--

11 (8) Effective October 1, 2000, a person may not
12 practice juvenile sexual offender therapy in this state, as
13 the practice is defined in s. 490.0145, for compensation,
14 unless the person holds an active license issued under this
15 chapter and meets the requirements to practice juvenile sexual
16 offender therapy. An unlicensed person may be employed by a
17 program operated by or under contract with the Department of
18 Juvenile Justice or the Department of Children and Family
19 Services if the program employs a professional who is licensed
20 under chapter 458, chapter 459, s. 490.0145, or s. 491.0144
21 who manages or supervises the treatment services.

22 Section 3. Section 490.0145, Florida Statutes, is
23 created to read:

24 490.0145 The practice of juvenile sexual offender
25 therapy.--Only a person licensed by this chapter who meets the
26 qualifications set by the board may hold himself or herself
27 out as a juvenile sexual offender therapist, except as
28 provided in s. 491.0144. These qualifications shall be
29 determined by the board. The board shall require training and
30 coursework in the specific areas of juvenile sexual offender
31 behaviors, treatments, and related issues. In establishing

1 these qualifications, the board may refer to the sexual
2 disorder and dysfunction sections of the most current edition
3 of the Diagnostic and Statistical Manual of the American
4 Psychiatric Association or other relevant publications.

5 Section 4. Paragraph (d) of subsection (1) of section
6 491.012, Florida Statutes, is amended, and paragraph (n) is
7 added to that subsection, to read:

8 491.012 Violations; penalty; injunction.--

9 (1) It is unlawful and a violation of this chapter for
10 any person to:

11 (d) Use the terms psychotherapist, ~~or~~ sex therapist,
12 or juvenile sexual offender therapist unless such person is
13 licensed pursuant to this chapter or chapter 490, or is
14 certified under s. 464.012 as an advanced registered nurse
15 practitioner who has been determined by the Board of Nursing
16 as a specialist in psychiatric mental health and the use of
17 such terms is within the scope of her or his practice based on
18 education, training, and licensure.

19 (n) Effective October 1, 2000, practice juvenile
20 sexual offender therapy in this state, as the practice is
21 defined in s. 491.0144, for compensation, unless the person
22 holds an active license issued under this chapter and meets
23 the requirements to practice juvenile sexual offender therapy.
24 An unlicensed person may be employed by a program operated by
25 or under contract with the Department of Juvenile Justice or
26 the Department of Children and Family Services if the program
27 employs a professional who is licensed under chapter 458,
28 chapter 459, s. 490.0145, or s. 491.0144 who manages or
29 supervises the treatment services.

30 Section 5. Section 491.0144, Florida Statutes, is
31 created to read:

1 491.0144 The practice of juvenile sexual offender
2 therapy.--Only a person licensed by this chapter who meets the
3 qualifications set by the board may hold himself or herself
4 out as a juvenile sexual offender therapist, except as
5 provided in s. 490.0145. These qualifications shall be
6 determined by the board. The board shall require training and
7 coursework in the specific areas of juvenile sexual offender
8 behaviors, treatments, and related issues. In establishing
9 these qualifications, the board may refer to the sexual
10 disorder and dysfunction sections of the most current edition
11 of the Diagnostic and Statistical Manual of the American
12 Psychiatric Association or other relevant publications.

13 Section 6. Section 943.17291, Florida Statutes, is
14 created to read:

15 943.17291 Basic skills training in juvenile sexual
16 offender investigation.--The commission shall incorporate
17 juvenile sexual offender investigation instruction into the
18 course curriculum required for a law enforcement officer to
19 obtain initial certification.

20 Section 7. Section 943.17295, Florida Statutes, is
21 created to read:

22 943.17295 Continued employment training relating to
23 juvenile sexual offender investigation.--The commission shall
24 incorporate the subject of sexual abuse and assault
25 investigation, with an emphasis on cases involving child
26 victims or juvenile offenders, into the curriculum required
27 for continuous employment or appointment as a law enforcement
28 officer.

29 Section 8. Subsection (3) of section 985.04, Florida
30 Statutes, is amended to read:

31 985.04 Oaths; records; confidential information.--

1 (3)(a) Except as provided in subsections (2), (4),
2 (5), and (6), and s. 943.053, all information obtained under
3 this part in the discharge of official duty by any judge, any
4 employee of the court, any authorized agent of the Department
5 of Juvenile Justice, the Parole Commission, the Juvenile
6 Justice Advisory Board, the Department of Corrections, the
7 district juvenile justice boards, any law enforcement agent,
8 or any licensed professional or licensed community agency
9 representative participating in the assessment or treatment of
10 a juvenile is confidential and may be disclosed only to the
11 authorized personnel of the court, the Department of Juvenile
12 Justice and its designees, the Department of Corrections, the
13 Parole Commission, the Juvenile Justice Advisory Board, law
14 enforcement agents, school superintendents and their
15 designees, any licensed professional or licensed community
16 agency representative participating in the assessment or
17 treatment of a juvenile, and others entitled under this
18 chapter to receive that information, or upon order of the
19 court. Within each county, the sheriff, the chiefs of police,
20 the district school superintendent, and the department shall
21 enter into an interagency agreement for the purpose of sharing
22 information about juvenile offenders among all parties. The
23 agreement must specify the conditions under which summary
24 criminal history information is to be made available to
25 appropriate school personnel, and the conditions under which
26 school records are to be made available to appropriate
27 department personnel. Such agreement shall require
28 notification to any classroom teacher of assignment to the
29 teacher's classroom of a juvenile who has been placed in a
30 community control or commitment program for a felony offense.
31 The agencies entering into such agreement must comply with s.

1 943.0525, and must maintain the confidentiality of information
2 that is otherwise exempt from s. 119.07(1), as provided by
3 law.

4 (b) The department shall disclose to the school
5 superintendent the presence of any child in the care and
6 custody or under the jurisdiction or supervision of the
7 department who has a known history of sexual behavior with
8 other juveniles; is an alleged juvenile sex offender, as
9 defined in s. 415.50165; or has pled guilty or nolo contendere
10 to, or has been found to have committed, a violation of
11 chapter 794, chapter 796, chapter 800, s. 827.071, or s.
12 847.0133, regardless of adjudication. Any employee of a
13 district school board who knowingly and willfully discloses
14 such information to an unauthorized person commits a
15 misdemeanor of the second degree, punishable as provided in s.
16 775.082 or s. 775.083.

17 Section 9. Section 985.308, Florida Statutes, is
18 amended to read:

19 985.308 Juvenile sexual offender commitment programs;
20 sexual abuse intervention networks.--

21 (1) In order to provide intensive treatment and
22 psychological services to a juvenile sexual offender committed
23 to the department, it is the intent of the Legislature to
24 establish programs and strategies to effectively respond to
25 juvenile sexual offenders. In designing programs for juvenile
26 sexual offenders, it is the further intent of the Legislature
27 to implement strategies that include:

28 (a) Developing adequate commitment programs and
29 facilities to ensure appropriate and effective treatment and
30 ensure that decisions to release juvenile sexual offenders
31

1 into the community are not made on the basis of inadequate
2 space.

3 (b) Providing an adequate number of well-trained staff
4 to address the treatment needs of juvenile sexual offenders.

5 (c) Providing intensive postcommitment supervision of
6 juvenile sexual offenders who are released into the community
7 with terms and conditions which may include electronic
8 monitoring of a juvenile sexual offender for the purpose of
9 enhancing public safety.

10 (d) Providing notification to the school to which the
11 juvenile sexual offender is returning, the parents or legal
12 guardians of the victim, and law enforcement, when a juvenile
13 sexual offender returns into the community.

14 (2) Contingent upon a specific appropriation, the
15 department shall implement and operate programs to provide
16 intensive educational and psychological services and other
17 treatment for juvenile sexual offenders.

18 (3) Subject to specific appropriation, a child may be
19 placed in a juvenile sexual offender program when committed to
20 the department.

21 (4) The program shall include educational components,
22 life management training, substance abuse treatment, and
23 intensive psychological treatment provided by appropriate
24 mental health professionals. Juvenile sexual offenders shall
25 be required to participate in all programs and treatment.

26 (5) The department shall provide an intensive
27 aftercare component for monitoring and assisting the
28 transition of a juvenile sexual offender into the community
29 with terms and conditions which may include electronic
30 monitoring of the juvenile sexual offender.

31

1 (6) The department shall establish protocol and
2 procedures to notify schools, the appropriate law enforcement
3 agencies, and the court when a juvenile sexual offender
4 returns to the community.

5 (7) The department may contract with private
6 organizations for the operation of a juvenile sexual offender
7 program and aftercare.

8 (8) The Juvenile Justice Standards and Training
9 Commission shall establish criteria for training all contract
10 and department staff or provide a special training program for
11 contract and department staff to effectively manage and
12 provide services and treatment to a juvenile sexual offender
13 in a juvenile sexual offender program.

14 (9) The department shall ~~is required to~~ conduct
15 inspections of and quality assurance activities for each
16 juvenile sexual offender program operated by the department,
17 based on standards specifically developed for these types of
18 programs, to determine whether the program complies with
19 department rules for continued operation of the program.

20 (10) The department shall maintain records and other
21 information necessary to evaluate the effectiveness of each
22 juvenile sexual offender program and other outcome evaluation
23 requirements.

24 (11) The state attorney in any judicial circuit may
25 establish a sexual abuse intervention network for the purposes
26 of identifying, investigating, prosecuting, treating, and
27 preventing sexual abuse with special emphasis on juvenile
28 sexual offenders and victims of sexual abuse.

29 (12) Membership of a sexual abuse intervention network
30 shall include, but are not limited to, representatives from:

31 (a) Local law enforcement agencies;

- 1 (b) Local school boards;
2 (c) Child protective investigators;
3 (d) The Office of the State Attorney;
4 (e) The Office of the Public Defender;
5 (f) The juvenile division of the circuit court;
6 (g) Professionals licensed under chapter 458, chapter
7 459, s. 490.0145, or s. 491.0144 providing treatment for
8 juvenile sexual offenders or their victims;
9 (h) The guardian ad litem program;
10 (i) The Department of Juvenile Justice; and
11 (j) The Department of Children and Family Services.
12 (13) Each sexual abuse intervention network shall
13 develop a cooperative working agreement describing the roles
14 and responsibilities of all members towards the
15 identification, investigation, prosecution, treatment, and
16 reintegration of juvenile sexual offenders and the treatment
17 of their victims.
18 (14) Subject to specific appropriation, availability
19 of funds, or receipt of appropriate grant funds, the Office of
20 the Attorney General in collaboration with the Department of
21 Children and Family Services and the Department of Juvenile
22 Justice shall award grants to sexual abuse intervention
23 networks that apply for such grants. The grants may be used
24 for training, treatment, aftercare, evaluation, public
25 awareness, and other specified community needs that are
26 identified by the network. A grant shall be awarded based on
27 the applicant's level of local funding, level of
28 collaboration, number of juvenile sexual offenders to be
29 served, number of victims to be served, and level of unmet
30 needs. The Department of Legal Affairs' Office of the Attorney
31 General, in collaboration with the Department of Juvenile

1 Justice and the Department of Children and Family Services,
2 shall establish by rule minimum standards for each respective
3 department for residential and day treatment juvenile sexual
4 offender programs funded under this subsection.

5 (15)(11) The Department of Legal Affairs department
6 may adopt is authorized to establish rules and other policy
7 directives necessary to award grants under implement the
8 provisions of this section.

9 Section 10. This act shall take effect July 1, 1998.

10
11 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
12 COMMITTEE SUBSTITUTE FOR
13 CS for SB 1796

- 14 - Adds persons licensed under chapter 458, F.S., and
15 chapter 459, F.S., to the licensed professionals who may
16 manage or supervise treatment services in facilities that
17 are operated by or under contract with the Department of
18 Juvenile Justice or the Department of Children and Family
19 Services and employ unlicensed persons to provide
20 juvenile sexual offender therapy.
- 21 - Adds persons licensed under chapter 458, F.S., and
22 chapter 459, F.S., to the licensed professionals who may
23 be members of a sexual abuse intervention network.
- 24 - Specifies that the Attorney General has lead
25 responsibility in awarding grants to sexual abuse
26 intervention networks and must collaborate with the
27 Department of Children and Family Services and the
28 Department of Juvenile Justice.
- 29 - Clarifies that the Department of Legal Affairs' Office of
30 Attorney General, in collaboration with the Department of
31 Juvenile Justice and the Department of Children and
Family Services, must establish, by rule, minimum
standards relating to residential and day treatment
juvenile sexual offender programs.
- Specifies that the Department of Legal Affairs may adopt
rules necessary to award grants to sexual abuse
intervention networks and removes rule-making
responsibility from the Department of Juvenile Justice.