

STORAGE NAME: h0475s1z.jj
DATE: May 6, 1998

****FINAL ACTION****
****SEE FINAL ACTION STATUS SECTION****

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
JUVENILE JUSTICE
FINAL BILL RESEARCH & ECONOMIC IMPACT STATEMENT**

BILL #: CS/HB 475 (PASSED AS CS/SB 1796) CHAPTER 98-158

RELATING TO: Juvenile Justice/Sexual Offenders

SPONSOR(S): Committee on Juvenile Justice and Rep. Brown

STATUTE(S) AFFECTED:

COMPANION BILL(S): SB 490 (Compare)

ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:

- (1) JUVENILE JUSTICE YEAS 6 NAYS 0
- (2) Civil Justice & Claims
- (3) Governmental Operations
- (4) Finance and Taxation
- (5) Criminal Justice Appropriations

I. FINAL ACTION STATUS:

This bill was carried over from the 1997 Legislative session. Having passed or been withdrawn from all committees of reference in the 1998 session, the bill died in the Justice Council pending ranking. It's companion bill, CS/SB 1796, passed the 1998 session. See Comments section for bill history. See Final Bill Research Statement for CS/SB 1796.

II. SUMMARY:

Currently, there exists no statutorily defined standards for juvenile sexual offender therapy and practice. The Task Force on Juvenile Sexual Offenders and Victims has made recommendations for standards relating to licensed professionals who work with juvenile sexual offenders and victims.

The bill requires the Department of Juvenile Justice (DJJ), to develop standards for juvenile sexual offender programs for the purpose of inspection, quality assurance activities, and evaluation of such programs. The bill requires a person who holds himself or herself out as a juvenile sexual offender therapist to be licensed and meet minimum requirements to practice juvenile sexual offender therapy established by the Agency for Health Care Administration (AHCA). The bill makes it a first degree misdemeanor for any person to practice as a juvenile sexual offender therapist without proper licensure and qualifications.

The bill authorizes local juvenile justice boards and councils or a state attorney to establish a Sexual Abuse Intervention Network for the purpose of collaborating programs for juvenile sexual offenders and victims and to receive grants administered by the Office of the Attorney General.

And finally, the bill requires DJJ to disclose to a school superintendent the presence of a juvenile with a known history of predatory sexual behavior or who is an adjudicated juvenile sexual offender.

The bill will have an insignificant fiscal impact.

III. SUBSTANTIVE ANALYSIS:

A. PRESENT SITUATION:

Juvenile Sexual Offenders Task Force

As part of the Juvenile Justice Reform Act of 1994, the Legislature created a task force on juvenile sexual offenders and their victims for the purpose of studying the issues, presenting findings, and making recommendations to the Legislature and the Department of Juvenile Justice. The task force made recommendations in the following areas:

- prevention and early intervention;
- reporting, investigation, and tracking;
- managing and treating juvenile sexual offenders in the community;
- standards for intervention and treatment; and
- training of law enforcement, judiciary, juvenile justice staff, state attorneys, school personnel, and foster parents.

The 1995 Legislature continued the juvenile sexual offender task force and expanded its duties to:

- Study and make recommendations for standards for specially licensed professionals to work with juvenile sexual offenders and their victims.
- Recommend standards for certifying programs for the treatment of juvenile sexual offenders and their victims.
- Establish training requirements and curricula for investigators, prosecutors, and judges.
- Assist communities in establishing community networks for enhancing public awareness of and preventing, enforcing, and treating juvenile sexual offenders and treating their victims.

- Evaluate and recommend funding sources for juvenile sexual offender programs and services.
- Recommend quality assurance standards and outcome measures.
- Recommend statutory changes in facilitating the prosecution of juvenile sexual offenders.

In its January 31, 1996 report, the task force focused its recommendations in the areas of investigating juvenile sexual abuse and certifying professional juvenile sexual offender treatment providers and programs.

Juvenile Sex Offenders

Section 39.01(36), F.S., defines a “juvenile sexual offender” as a child found by the court to have committed a violation of chapter 794, chapter 796, chapter 800, s. 827.071, and s. 847.0133. Juvenile sexual offender behavior ranges from non-contact sexual behavior, such as making obscene telephone calls, exhibitionism, voyeurism and the showing or taking of lewd photographs to varying degrees of direct sexual contact such as fondling, digital penetration, rape, fellatio, and other sexually aggressive acts including sexual abuse.

Section 39.052 (7), F.S., authorizes the court, following an adjudicatory hearing, to determine whether a juvenile sexual offender placement is required for the protection of the public or in the best interest of the juvenile offender regarding treatment and other services. The court may order the Department of Juvenile Justice (DJJ) to conduct an examination to determine whether the juvenile sexual offender can be placed in a community-based treatment program.

The court may either place the youth in a community-based treatment program and under the supervision of DJJ for up to 3 years or proceed with a juvenile sexual offender disposition hearing pursuant to s. 39.054, F.S. A juvenile sexual offender may be committed to DJJ for placement in a program designated for such youth.

Section 39.0571, F.S., establishes the intent of the Legislature that DJJ shall establish programs and strategies to effectively respond to juvenile sexual offenders. This section requires DJJ to:

- implement and operate programs or contract with private providers to provide intensive educational and psychological services and other treatment for juvenile sexual offenders (contingent upon specific appropriations);
- provide an intensive aftercare component for monitoring the youth’s transition back into the community and to ensure compliance with the terms and conditions of aftercare;
- establish procedures to notify schools, law enforcement agencies, and the court when a juvenile sexual offender returns to the community;
- conduct inspections of and quality assurance activities for each juvenile sexual offender program; and

- establish criteria for training all contract and DJJ staff or provide a special training program to effectively manage and provide services and treatment for juvenile sexual offenders.

According to DJJ, there are currently two residential sexual offender commitment programs and about 100 day-treatment juvenile sexual offender slots. The Elaine Gordon Treatment Center (32 beds) and Manatee Adolescent Treatment Program (35 beds) are long-term residential programs for male juvenile sexual offenders diagnosed with having severe sexual dysfunction. The day-treatment slots are for youth adjudicated delinquent and either committed to DJJ or placed on community control. Youth are required to participate in a day-treatment program for 10 hours each day and are provided mental health wraparound services in addition to intensive supervision.

According to DJJ, for FY 1996/97, about \$3.5 million for nonresidential juvenile sexual offender treatment slots (specialized day treatment programs) in 7 DJJ districts and about \$3.6 million for the two residential juvenile sexual offender treatment programs in 2 DJJ districts is appropriated.

According to a February 10, 1997 report on DJJ commitment programs conducted by the Office of Program Policy Analysis and Government Accountability (OPPAGA), there is a need for DJJ to expand and reconfigure commitment programs to meet the special needs of juvenile sex offenders. On June 1, 1996, 5% percent of the youth in DJJ residential commitment programs had been adjudicated for sex offenses and 10% had sex offense charges in their offense history. According to OPPAGA, sexual offenders can be found in the general population at each of the commitment levels and:

“Because of the propensity of sex offenders to reoffend without proper treatment, this population is particularly important to treat appropriately.”

Juvenile Sex Offender Therapist

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

Chapter 490, F.S., provides for the regulation of the practice of psychology by the Board of Psychology within the Agency for Health Care Administration (AHCA). This chapter defines the practice of psychology and establishes practice standards which are enforced by the board and AHCA. The board is authorized to establish by rule qualifications for licensed psychologists and establish criminal penalties and 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 AHCA. This chapter provides definitions of practice for psychologists regulated by the board. This chapter authorizes the board to establish by rule qualifications for licensed psychotherapist under its regulatory jurisdiction and establish criminal penalties and exemptions.

Confidential Juvenile Records

Section 39.045, F.S., provides that information about a juvenile offender may be disclosed only to authorized personnel of the court, the Department of Juvenile Justice and its designees, the Department of Corrections, the Parole Commission, the Juvenile Justice Advisory Board, law enforcement agents, school superintendents and their designees, persons conducting assessments on juvenile offenders, or anyone else upon a court order. Counties are required to enter into interagency agreements for the purpose of sharing information about juvenile offenders. Conditions must be specified under which a summary of a juvenile offender's criminal history is to be given to appropriate school personnel. Also, the agreement must specify the conditions under which school records are to be made available to DJJ and other appropriate personnel.

Training for Law Enforcement Officers

All law enforcement officers are required to be certified by the Criminal Justice Standards and Training Commission (CJSTC) within the Florida Department of Law Enforcement pursuant to ss. 943.12 and 943.13, F.S. A person seeking employment as a law enforcement officer must:

- be at least 19 years of age;
- be at least a high school graduate or equivalent;
- not have been convicted of any felony or a misdemeanor involving perjury;
- pass a physical examination;
- have "good moral character" as determined by a background investigation;
- complete a basic recruit training program approved by the CJSTC; and
- achieve an acceptable score on an officer certification examination.

Section 943.085, F.S., provides legislative intent with respect to upgrading the quality of law enforcement officers in this state. The Legislature intends to attract competent, highly qualified persons for criminal justice careers and retain them in order to provide maximum protection and safety to citizens.

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% 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.

B. EFFECT OF PROPOSED CHANGES:

The bill requires the Department of Juvenile Justice (DJJ) to disclose to a school superintendent the presence of a juvenile under the care and custody of the department who has a known history of predatory sexual behavior or who is an adjudicated juvenile sexual offender.

The bill 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 DJJ standards.

The bill would make it a first degree misdemeanor under sections 490.012 and 491. 012, F.S., for a person, after October 1, 1999, to practice juvenile sexual offender therapy for compensation, unless the person has been licensed as a psychiatrist under chapter 490, F.S., or licensed as a psychotherapist under chapter 491, F.S., and has met certain specified qualifications to be a juvenile sexual offender therapist. Persons working as juvenile sex offender therapist in programs operated by or contracted to DJJ or the Department of Children and Family Services will be exempt from licensing requirements.

The bill would authorize juvenile justice boards and councils or any state attorney to establish a Sexual Abuse Intervention Network in a county, district or judicial circuit. The Network would be a written agreement among numerous enumerated persons and entities for the purpose of collaborating and cooperating in the identification, investigation, prosecution, treatment, and reintegration of juvenile sexual offenders.

The bill also authorizes the Office of the Attorney General to award grants through the Network for the purpose of providing training to investigators, state attorneys, judges, public defenders, guardian ad litem, DJJ case managers, school personnel, and mental health providers on juvenile sexual offenders. Grants may also be awarded to fund non-residential mental health treatment programs for victims of sexual assault and their families.

The bill would also require the Criminal Justice Standards and Training Commission within the Florida Department of Law Enforcement (FDLE) to establish standards for instructing law enforcement officers regarding the investigation of juvenile sexual offenses. The commission must incorporate instruction on juvenile sexual offense investigation as part of the curriculum required for a law enforcement officer to obtain initial certification. The commission must also incorporate the subject of sexual abuse and assault investigation, with an emphasis on cases involving children as victims or offenders, into the curriculum required for continuous employment or appointment as a law enforcement officer.

C. APPLICATION OF PRINCIPLES:

1. Less Government:

a. Does the bill create, increase or reduce, either directly or indirectly:

(1) any authority to make rules or adjudicate disputes?

No.

(2) any new responsibilities, obligations or work for other governmental or private organizations or individuals?

No.

(3) any entitlement to a government service or benefit?

N/A

b. If an agency or program is eliminated or reduced:

(1) what responsibilities, costs and powers are passed on to another program, agency, level of government, or private entity?

N/A

(2) what is the cost of such responsibility at the new level/agency?

N/A

(3) how is the new agency accountable to the people governed?

N/A

2. Lower Taxes:

a. Does the bill increase anyone's taxes?

No.

b. Does the bill require or authorize an increase in any fees?

No.

c. Does the bill reduce total taxes, both rates and revenues?

No.

d. Does the bill reduce total fees, both rates and revenues?

N/A

e. Does the bill authorize any fee or tax increase by any local government?

No.

3. Personal Responsibility:

a. Does the bill reduce or eliminate an entitlement to government services or subsidy?

N/A

b. Do the beneficiaries of the legislation directly pay any portion of the cost of implementation and operation?

N/A

4. Individual Freedom:

a. Does the bill increase the allowable options of individuals or private organizations/associations to conduct their own affairs?

N/A

b. Does the bill prohibit, or create new government interference with, any presently lawful activity?

No.

5. Family Empowerment:

a. If the bill purports to provide services to families or children:

(1) Who evaluates the family's needs?

See Summary below.

(2) Who makes the decisions?

See Summary below.

(3) Are private alternatives permitted?

See Summary below.

(4) Are families required to participate in a program?

See Summary below.

(5) Are families penalized for not participating in a program?

See Summary below.

b. Does the bill directly affect the legal rights and obligations between family members?

N/A

c. If the bill creates or changes a program providing services to families or children, in which of the following does the bill vest control of the program, either through direct participation or appointment authority:

(1) parents and guardians?

See Summary below.

(2) service providers?

See Summary below.

(3) government employees/agencies?

See Summary below.

SUMMARY:

This bill would provide standards for juvenile sexual offender treatment programs and criteria for specialized counselors and therapists which should raise the quality of these programs and the delivery of services by these counselors and therapists. Families of the youth adjudicated delinquent for sex offenses and ordered to participate in residential and non-residential programs, some of which may be secure and long term, may be required to participate in these programs.

As part of the treatment process, youth and their families may be referred to or serviced by private therapists or counselors. Victims and their families may have the opportunity to receive a greater number of quality services from treatment programs expanded as a result of this bill. Since juvenile sexual offenders are under the direct control of the juvenile court and the Department of Juvenile Justice, services affected by this bill and provided to such youth and their families are generally not under the control of the families which have a juvenile sexual offender. Families victimized by a juvenile sexual offender, which might be the same family, would have more control to seek victimization services from programs benefiting from this bill.

D. SECTION-BY-SECTION ANALYSIS:

SECTION 1. Amends s. 39.045, F.S.; to require the Department of Juvenile Justice to disclose to school superintendents the presence of a juvenile under the custody of DJJ who has a known history of predatory sexual behavior or who is an adjudicated juvenile sexual offender.

SECTION 2. Amends s. 39.0571, F.S.; to require the Department of Juvenile Justice to conduct investigations and quality assurance activities for each juvenile sexual offender program based on standards specifically developed for these programs. Authorizes juvenile justice councils and boards or the state attorney to establish a Sexual Abuse Intervention Network; describes the purpose of the Network; and authorizes the Office of the Attorney General to award grants to the Network under specified conditions.

SECTION 3. Amends s. 39.411, F.S.; to require the Department of Juvenile Justice to disclose to school superintendents the presence of a juvenile under the custody of DJJ who has a known history of predatory sexual behavior or who is an adjudicated juvenile sexual offender.

SECTION 4. Amends s. 490.012, F.S.; to make it unlawful for a person beginning October 1, 1999 to practice juvenile sexual offender therapy unless the person is licensed pursuant to chapter 490 and meets the qualifications of a juvenile sexual offender therapist. Exempts persons working for DJJ or Department of Children Family Services operated or contracted programs

SECTION 5. Creates s. 490.0145, F.S.; to provide that only a person meeting specified qualifications can hold himself or herself out to be a juvenile sexual offender therapist. Provides that the Board of Psychology shall define these qualifications.

SECTION 6. Amends s. 491.012, F.S.; to make it unlawful for a person beginning October 1, 1999 to call himself or herself a juvenile sexual offender therapist or provide services defined as juvenile sexual offender therapy, if not licensed and meeting the qualifications set out in chapter 490 or chapter 491.

SECTION 7. Creates s. 491.0144, F.S.; to provide that only a person meeting specified criteria can hold himself or herself out as juvenile sexual offender therapist.

SECTION 8. Creates s. 943.17291, F.S.; to require the Criminal Justice Standards and Training Commission (FDLE) to include juvenile sexual offender investigation instruction in the core curriculum for certification of law enforcement officers.

SECTION 9. Creates s. 943.17295, F.S.; to require the Criminal Justice Standards and Training Commission (FDLE) to include sexual abuse and sexual assault investigation instruction with emphasis on cases involving child victims and juvenile offenders as part of the required instruction for continuous employment as a law enforcement officer.

SECTION 10. Creates an effective date of June 30, 1997.

IV. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring Effects:

See fiscal comments.

2. Recurring Effects:

See fiscal comments.

3. Long Run Effects Other Than Normal Growth:

None.

4. Total Revenues and Expenditures:

See fiscal summary.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

None.

2. Recurring Effects:

None.

3. Long Run Effects Other Than Normal Growth:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

There may be an indeterminate cost for additional training for therapists and counselors who seek designation as a juvenile sexual offender therapist.

2. Direct Private Sector Benefits:

None.

3. Effects on Competition, Private Enterprise and Employment Markets:

None.

D. FISCAL COMMENTS:

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

V. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

This bill does not require counties or municipalities to spend or to take an action requiring the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This bill does not reduce the authority that counties or municipalities have to raise revenues in the aggregate.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

This bill does not reduce the percentage of a state tax shared with counties or municipalities.

VI. COMMENTS:

According to the Department of Juvenile Justice, establishing quality assurance standards for juvenile sexual offender treatment programs and requiring specialized training and licensing of juvenile sexual offender therapists will result in enhanced services to juvenile sexual offenders committed to DJJ and will provide DJJ with an improved method of evaluating programs for these youth and their families. DJJ also believes that establishing a Sexual Abuse Intervention Network in each DJJ service district facilitates the coordination and delivery of training and programs for the treatment of juvenile sexual offenders.

Training and licensing sex offender treatment providers is done in other states. For example, the Texas Council on Sex Offender Treatment is a state organization dedicated to the prevention of sexual assault through effective treatment and management of sex offenders. The association is responsible for certifying mental health treatment providers who have the appropriate training and experience in the treatment of sex offenders. The association has also developed standards and appropriate evaluation and treatment procedures and policies for the treatment of sex offenders.

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 (which for standardization and liability reasons is job-related based), there are currently courses on investigation which consist of procedures and practices for investigating and preserving the crime scene. Course work and instruction covers among other areas sex 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.

BILL HISTORY

02/10/97 Prefiled

02/21/97 Referred to Juvenile Justice; Civil Justice and Claims; Government Operations; Finance and Taxation; Criminal Justice Appropriations

04/10/97 JJ Committee, unanimously passed as CS

05/02/97 Carried over, in Civil Justice and Claims

03/11/98 Civil Justice and Claims, favorable with one amendment

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03/24/98 Withdrawn from Governmental Operations
03/25/98 Withdrawn from Finance and Taxation
04/21/98 Withdrawn from Criminal Justice Appropriations
05/01/98 Died in Justice Council pending ranking

VII. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

HB 475 was made into a proposed committee substitute and heard by the Committee on Juvenile Justice on April 4, 1997 when it was temporary postponed. The PCS was again heard on April 11, 1997 when a strike-all amendment was offered by the sponsor. Both the PCS and the strike-all amendment differs from the bill as filed in the following ways:

- Deletes the taxing of adult entertainment establishments and personal escort services.
- Deletes the requirement that DJJ certify juvenile sex offender programs.
- Deletes the provision that DJJ establish sexual abuse intervention networks.
- Deletes specific requirements required for licensing juvenile sex offender therapist.
- Deletes the provisions that DJJ award grants to sexual abuse intervention networks and that any unspent funds must be used for the grants and instead authorized the Office of the Attorney General to award such grants.

Amendments to the strike-all amendment clarified that DJJ only be required to develop standards for quality assurance purposes for programs operated by or under contract to DJJ or the Department of Children and Family Services (DCFS). A final amendment makes an exemption for certain persons working in DJJ or DCFS operated or contracted juvenile sex offender programs from licensing requirements. The PCS as amended was passed out of committee.

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VIII. SIGNATURES:

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