

By the Committees on Fiscal Policy; Children and Families; and
Senator Cowin

309-1714F-99

1 A bill to be entitled
2 An act relating to the protection of children;
3 creating the "Kayla McKean Child Protection
4 Act"; providing legislative intent; amending s.
5 39.01, F.S.; redefining the term "harm" for
6 purposes of ch. 39, F.S., to include the act of
7 placing a child with another person to avoid or
8 impede a protective investigation; redefining
9 the term "participant" to include providers
10 when designated by the court; amending s.
11 39.201, F.S.; requiring that a judge report
12 known or suspected child abuse; requiring that
13 the Department of Children and Family Services
14 accept certain reports of child abuse for
15 investigation; providing additional
16 requirements for the department with respect to
17 recording calls on the central abuse hotline;
18 requiring that the department's quality
19 assurance program review reports made to the
20 hotline which involve a specified number of
21 reports on a single child; amending s. 39.202,
22 F.S.; providing for certain persons who report
23 child abuse to request a summary of the
24 investigation; amending s. 39.205, F.S.;
25 increasing the penalties imposed for failing to
26 report child abuse or preventing the reporting
27 of child abuse, unless the court finds the
28 offender is a victim of domestic violence;
29 amending s. 39.301, F.S.; requiring
30 notification of the appropriate law enforcement
31 agency of reports provided to the department's

1 district staff; requiring review; requiring
2 criminal investigation, if warranted; requiring
3 that the department maintain certain
4 information on child abuse investigations;
5 providing requirements for assigning
6 multidisciplinary staff to an investigation;
7 requiring that the department adopt rules
8 governing the completion of investigatory
9 activities; revising requirements for
10 conducting risk assessments and onsite child
11 protective investigations; authorizing the
12 department to conduct unannounced visits and
13 interviews; requiring that the department adopt
14 rules specifying criteria under which a child
15 is taken into custody, that a petition be filed
16 with the court, or that an administrative
17 review be held; requiring documentation;
18 requiring that law enforcement agencies
19 participating in an investigation take
20 photographs of the child's living environment
21 which shall be part of the investigative file;
22 requiring certain training; amending s. 39.302,
23 F.S.; authorizing the department to conduct
24 unannounced visits when conducting an
25 investigation; requiring that the department
26 conduct certain onsite visits; amending s.
27 39.303, F.S.; providing for a child protection
28 team to include a representative of the school
29 district; providing for medical evaluations in
30 certain cases of child abuse, and neglect;
31 specifying additional conditions that must be

1 evaluated by the child protection team;
2 amending s. 39.304, F.S.; requiring that
3 photographs be taken of visible trauma on a
4 child which shall be part of the investigative
5 file; amending s. 39.306, F.S.; specifying
6 local criminal history information that a law
7 enforcement entity is authorized to share;
8 amending s. 39.402, F.S.; authorizing the court
9 to order that a child remain in the
10 department's custody for an additional period
11 in order for the court to determine risk to the
12 child; requiring that the department provide
13 certain information to the court at the shelter
14 hearing; creating s. 383.402, F.S.; creating
15 the State Child Abuse Death Review Committee;
16 providing for membership of the committee;
17 specifying the duties of the committee;
18 providing for terms of office; providing for
19 members of the committee to be reimbursed for
20 expenses; providing for counties to establish
21 local child abuse death review committees;
22 providing for membership and duties;
23 authorizing the review committees to have
24 access to information pertaining to the death
25 of a child; authorizing providers to charge a
26 specified fee; authorizing the State Child
27 Abuse Death Review Committee to issue
28 subpoenas; requiring the Department of Health
29 to administer the funds appropriated to operate
30 the review committees; requiring that the
31 Department of Children and Family Services

1 appoint a child abuse death review coordinator
2 in each district; amending s. 409.1671, F.S.;
3 requiring a case-transfer process; requiring
4 that private providers furnish status reports
5 to the Department of Children and Family
6 Services; prohibiting a provider from
7 discontinuing services without the department's
8 written notification; requiring that contracts
9 between the department and community-based
10 agencies include provisions for dispute
11 resolution; amending s. 777.03, F.S.; providing
12 that certain actions to assist an offender who
13 has committed child abuse, child neglect, or
14 the manslaughter or murder of a child under a
15 specified age constitute acting as an accessory
16 after the fact; amending s. 827.03, F.S.;
17 increasing the penalties imposed for the
18 offense of aggravated child abuse; amending s.
19 921.0022, F.S., relating to the offense
20 severity ranking chart of the Criminal
21 Punishment Code; conforming provisions to
22 changes made by the act; amending s. 934.03,
23 F.S.; authorizing the central abuse hotline to
24 record incoming wire communications; amending
25 s. 39.823, F.S., relating to guardian advocates
26 for newborns; conforming a cross-reference to
27 changes made by the act; requiring the
28 Department of Health to develop a plan for
29 county child protection teams; requiring the
30 Department of Children and Family Services to
31 contract with an independent entity to evaluate

1 the central abuse hotline; providing
2 appropriations; providing that certain
3 full-time positions within the Department of
4 Children and Family Services are not subject to
5 position-lapse adjustments in the General
6 Appropriations Act or in agency operation
7 budgets; providing for an analysis and report
8 by the Office of Program Policy Analysis and
9 Government Accountability; providing an
10 effective date.

11
12 WHEREAS, national statistics indicate that 46 percent
13 of children who died as a result of child abuse or neglect had
14 prior contact with the state child protection agency, and

15 WHEREAS, more than 79,000 children in Florida were
16 abused or neglected in fiscal year 1997-1998, and a number of
17 these children died as a result of being abused, and

18 WHEREAS, 10 percent of the abused or neglected children
19 in this state were abused or neglected again within 1 year
20 after the case was closed by the Department of Children and
21 Family Services, and

22 WHEREAS, the Legislature abhors a child-protection
23 system that allows a child who is known to be at serious risk
24 to remain in a dangerous home and be further harmed, even
25 killed, and

26 WHEREAS, the recent deaths of children in this state
27 which resulted from the maltreatment of children by their
28 parents, family members, or caregivers emphasize the need to
29 enhance the protection of the health and safety of children
30 served by Florida's child-protection system by means that
31 include strengthening the identification and assessment of

1 those parents, family members, or other caregivers who are
2 involved in or at risk of engaging in abusive or neglectful
3 behavior, NOW, THEREFORE,

4
5 Be It Enacted by the Legislature of the State of Florida:

6
7 Section 1. Short title.--This act may be cited as the
8 "Kayla McKean Child Protection Act."

9 Section 2. Legislative intent.--The Legislature
10 intends to identify those gaps or shortcomings in the current
11 child-protection system, including those gaps or shortcomings
12 in child-protection services provided by the Department of
13 Children and Family Services and its contract providers, by
14 child protection teams, by law enforcement agencies, by
15 schools, and by the courts, in order to make the system more
16 responsive to children who are at risk of child abuse or
17 neglect.

18 Section 3. Paragraph (1) is added to subsection (30)
19 of section 39.01, Florida Statutes, 1998 Supplement, and
20 subsection (50) of that section is amended, to read:

21 39.01 Definitions.--When used in this chapter, unless
22 the context otherwise requires:

23 (30) "Harm" to a child's health or welfare can occur
24 when the parent, legal custodian, or caregiver responsible for
25 the child's welfare:

26 (1) Makes the child unavailable for the purpose of
27 impeding or avoiding a protective investigation unless the
28 court determines that the parent, legal custodian, or
29 caregiver was fleeing from a situation involving domestic
30 violence.

31

1 (50) "Participant," for purposes of a shelter
2 proceeding, dependency proceeding, or termination of parental
3 rights proceeding, means any person who is not a party but who
4 should receive notice of hearings involving the child,
5 including foster parents or caregivers, identified prospective
6 parents, grandparents entitled to priority for adoption
7 consideration under s. 63.0425, actual custodians of the
8 child, and any other person whose participation may be in the
9 best interest of the child. A community-based agency under
10 contract with the department to provide protective services
11 may be designated as a participant at the discretion of the
12 court. Participants may be granted leave by the court to be
13 heard without the necessity of filing a motion to intervene.

14 Section 4. Subsections (1) and (2) of section 39.201,
15 Florida Statutes, 1998 Supplement, are amended, and
16 subsections (8) and (9) are added to that section, to read:

17 39.201 Mandatory reports of child abuse, abandonment,
18 or neglect; mandatory reports of death; central abuse
19 hotline.--

20 (1) Any person, including, but not limited to, any:

21 (a) Physician, osteopathic physician, medical
22 examiner, chiropractic physician, nurse, or hospital personnel
23 engaged in the admission, examination, care, or treatment of
24 persons;

25 (b) Health or mental health professional other than
26 one listed in paragraph (a);

27 (c) Practitioner who relies solely on spiritual means
28 for healing;

29 (d) School teacher or other school official or
30 personnel;

31

1 (e) Social worker, day care center worker, or other
2 professional child care, foster care, residential, or
3 institutional worker; ~~or~~

4 (f) Law enforcement officer; or

5 (g) Judge,

6
7 who knows, or has reasonable cause to suspect, that a child is
8 an abused, abandoned, or neglected child shall report such
9 knowledge or suspicion to the department in the manner
10 prescribed in subsection (2).

11 (2)(a) Each report of known or suspected child abuse,
12 abandonment, or neglect pursuant to this section, except those
13 solely under s. 827.04(3), shall be made immediately to the
14 department's central abuse hotline on the single statewide
15 toll-free telephone number, and, if the report is of an
16 instance of known or suspected child abuse by a noncaretaker,
17 the call shall be immediately electronically transferred to
18 the appropriate county sheriff's office by the central abuse
19 hotline. If the report is of an instance of known or
20 suspected child abuse involving impregnation of a child under
21 16 years of age by a person 21 years of age or older solely
22 under s. 827.04(3), the report shall be made immediately to
23 the appropriate county sheriff's office or other appropriate
24 law enforcement agency. If the report is of an instance of
25 known or suspected child abuse solely under s. 827.04(3), the
26 reporting provisions of this subsection do not apply to health
27 care professionals or other persons who provide medical or
28 counseling services to pregnant children when such reporting
29 would interfere with the provision of medical services.

30 (b) The department must consider valid and accept for
31 investigation any report received by the central abuse hotline

1 from a judge, teacher or other professional school official,
2 or physician, as specified in paragraph (1)(a), paragraph
3 (1)(d), or paragraph (1)(g), who is acting in his or her
4 professional capacity.

5 (c)~~(b)~~ Reporters in occupation categories designated
6 in subsection (1) are required to provide their names to the
7 hotline staff. The names of reporters shall be entered into
8 the record of the report, but shall be held confidential as
9 provided in s. 39.202.

10 (d)~~(c)~~ Reports involving known or suspected
11 institutional child abuse or neglect shall be made and
12 received in the same manner as all other reports made pursuant
13 to this section.

14 (e)~~(d)~~ Reports involving a known or suspected juvenile
15 sexual offender shall be made and received by the department.

16 1. The department shall determine the age of the
17 alleged juvenile sexual offender if known.

18 2. When the alleged juvenile sexual offender is 12
19 years of age or younger, the department shall proceed with an
20 investigation of the report pursuant to this part, immediately
21 electronically transfer the call to the appropriate law
22 enforcement agency office by the central abuse hotline, and
23 send a written report of the allegation to the appropriate
24 county sheriff's office within 48 hours after the initial
25 report is made to the central abuse hotline.

26 3. When the alleged juvenile sexual offender is 13
27 years of age or older, the department shall immediately
28 electronically transfer the call to the appropriate county
29 sheriff's office by the central abuse hotline, and send a
30 written report to the appropriate county sheriff's office
31

1 within 48 hours after the initial report to the central abuse
2 hotline.

3 (f)~~(e)~~ Hotline counselors shall receive periodic
4 training in encouraging reporters to provide their names when
5 reporting abuse, abandonment, or neglect. Callers shall be
6 advised of the confidentiality provisions of s. 39.202. The
7 department shall secure and install electronic equipment that
8 automatically provides to the hotline the number from which
9 the call is placed. This number shall be entered into the
10 report of abuse, abandonment, or neglect and become a part of
11 the record of the report, but shall enjoy the same
12 confidentiality as provided to the identity of the caller
13 pursuant to s. 39.202.

14 (g) The department shall voice-record all incoming or
15 outgoing calls that are received or placed by the central
16 abuse hotline which relate to suspected or known child abuse,
17 neglect, or abandonment. The recording shall become a part of
18 the record of the report, but is subject to the same
19 confidentiality as is provided to the identity of the caller
20 under s. 39.202.

21 (8) Nothing in this chapter or in the privatization of
22 foster care and related services as specified in s. 409.1671
23 shall be construed to remove or reduce the duty and
24 responsibility of any person, including any employee of the
25 privatization provider, to report a suspected or actual case
26 of child abuse, abandonment, or neglect or the sexual abuse of
27 a child to the department's central abuse hotline.

28 (9) On an ongoing basis, the department's quality
29 assurance program shall review reports to the hotline
30 involving three or more unaccepted reports on a single child
31 in order to detect such things as harassment and situations

1 that warrant an investigation because of the frequency or
2 variety of the source of the reports. The assistant secretary
3 may refer a case for investigation when it is determined, as a
4 result of this review, that an investigation may be warranted.

5 Section 5. Subsection (4) of section 39.202, Florida
6 Statutes, 1998 Supplement, is amended to read:

7 39.202 Confidentiality of reports and records in cases
8 of child abuse or neglect.--

9 (4) The name of any person reporting child abuse,
10 abandonment, or neglect may not be released to any person
11 other than employees of the department responsible for child
12 protective services, the central abuse hotline, law
13 enforcement, or the appropriate state attorney, without the
14 written consent of the person reporting. This does not
15 prohibit the subpoenaing of a person reporting child abuse,
16 abandonment, or neglect when deemed necessary by the court,
17 the state attorney, or the department, provided the fact that
18 such person made the report is not disclosed. Any person who
19 reports a case of child abuse or neglect may, at the time he
20 or she makes the report, request that the department notify
21 him or her that a child protective investigation occurred as a
22 result of the report. Any person specifically listed in s.
23 39.201(1) who makes a report in his or her official capacity
24 may also request a written summary of the outcome of the
25 investigation.The department shall mail such a notice to the
26 reporter within 10 days after completing the child protective
27 investigation.

28 Section 6. Section 39.205, Florida Statutes, 1998
29 Supplement, is amended to read:

30 39.205 Penalties relating to reporting of child abuse,
31 abandonment, or neglect.--

1 (1) A person who is required to report known or
2 suspected child abuse, abandonment, or neglect and who
3 knowingly and willfully fails to do so, or who knowingly and
4 willfully prevents another person from doing so, is guilty of
5 a misdemeanor of the first ~~second~~ degree, punishable as
6 provided in s. 775.082 or s. 775.083.

7 (2) Unless the court finds that the person is a victim
8 of domestic violence or that other mitigating circumstances
9 exist, a person who is 18 years of age or older and lives in
10 the same house or living unit as a child who is known or
11 suspected to be a victim of child abuse, neglect of a child,
12 or aggravated child abuse, and knowingly and willfully fails
13 to report the child abuse commits a felony of the third
14 degree, punishable as provided in s. 775.082, s. 775.083, or
15 s. 775.084.

16 ~~(3)~~(2) A person who knowingly and willfully makes
17 public or discloses any confidential information contained in
18 the central abuse hotline or in the records of any child
19 abuse, abandonment, or neglect case, except as provided in
20 this chapter, is guilty of a misdemeanor of the second degree,
21 punishable as provided in s. 775.082 or s. 775.083.

22 ~~(4)~~(3) The department shall establish procedures for
23 determining whether a false report of child abuse,
24 abandonment, or neglect has been made and for submitting all
25 identifying information relating to such a report to the
26 appropriate law enforcement agency and shall report annually
27 to the Legislature the number of reports referred.

28 ~~(5)~~(4) If the department or its authorized agent has
29 determined after its investigation that a report is false, the
30 department shall, with the consent of the alleged perpetrator,
31 refer the report to the local law enforcement agency having

1 jurisdiction for an investigation to determine whether
2 sufficient evidence exists to refer the case for prosecution
3 for filing a false report as defined in s. 39.01(27). During
4 the pendency of the investigation by the local law enforcement
5 agency, the department must notify the local law enforcement
6 agency of, and the local law enforcement agency must respond
7 to, all subsequent reports concerning children in that same
8 family in accordance with s. 39.301. If the law enforcement
9 agency believes that there are indicators of abuse,
10 abandonment, or neglect, it must immediately notify the
11 department, which must assure the safety of the children. If
12 the law enforcement agency finds sufficient evidence for
13 prosecution for filing a false report, it must refer the case
14 to the appropriate state attorney for prosecution.

15 (6)~~(5)~~ A person who knowing and willfully makes a
16 false report of child abuse, abandonment, or neglect, or who
17 advises another to make a false report, is guilty of a felony
18 of the third degree, punishable as provided in s. 775.082 or
19 s. 775.083. Anyone making a report who is acting in good
20 faith is immune from any liability under this subsection.

21 (7)~~(6)~~ Each state attorney shall establish and publish
22 written procedures to facilitate the prosecution of persons
23 under this section, and shall report to the Legislature
24 annually the number of complaints that have resulted in the
25 filing of an information or indictment and the disposition of
26 those complaints under this section.

27 Section 7. Section 39.301, Florida Statutes, 1998
28 Supplement, is amended to read:

29 39.301 Initiation of protective investigations.--

30 (1) Upon receiving an oral or written report of known
31 or suspected child abuse, abandonment, or neglect, the central

1 abuse hotline shall determine if the report requires an
2 immediate onsite protective investigation. For reports
3 requiring an immediate onsite protective investigation, the
4 central abuse hotline shall immediately notify the
5 department's designated children and families district staff
6 responsible for protective investigations to ensure that an
7 onsite investigation is promptly initiated. For reports not
8 requiring an immediate onsite protective investigation, the
9 central abuse hotline shall notify the department's designated
10 children and families district staff responsible for
11 protective investigations in sufficient time to allow for an
12 investigation. At the time of notification of district staff
13 with respect to the report, the central abuse hotline shall
14 also provide information on any previous report concerning a
15 subject of the present report or any pertinent information
16 relative to the present report or any noted earlier reports.

17 (2) Upon notification by the department's central
18 abuse hotline under subsection (1), the designated child
19 protective investigator shall immediately notify the
20 appropriate law enforcement agency of the county in which the
21 known or suspected child abuse, abandonment, or neglect is
22 believed to have occurred. Upon receipt of a report, the law
23 enforcement agency must review the report and determine
24 whether a criminal investigation of the case is warranted and,
25 if so, shall conduct the criminal investigation that shall be
26 coordinated, whenever possible, with the child protective
27 investigation of the department or its agent.

28 (3) The department shall maintain a master file for
29 each child whose report is accepted by the central abuse
30 hotline for investigation. Such file must contain information
31 concerning all reports received concerning that child. The

1 file must be made available to any department staff, agent of
2 the department, or contract provider given responsibility for
3 conducting a protective investigation.

4 (4) To the extent practical, all protective
5 investigations involving a child shall be conducted or the
6 work supervised by a single individual in order for there to
7 be broad knowledge and understanding of the child's history.
8 When a new investigator is assigned to investigate a second
9 and subsequent report involving a child, a multidisciplinary
10 staffing shall be conducted which includes new and prior
11 investigators, their supervisors, and appropriate private
12 providers in order to assure that, to the extent possible,
13 there is coordination among all parties. The department shall
14 establish an internal operating procedure that ensures that
15 all required investigatory activities, including a review of
16 the child's complete investigative and protective services
17 history, are completed by the investigator, reviewed by the
18 supervisor in a timely manner, and signed and dated by both
19 the investigator and the supervisor.

20 (5)(2)(a) Upon commencing an investigation under this
21 part, the child protective investigator shall inform any
22 subject of the investigation of the following:

- 23 1. The names of the investigators and identifying
24 credentials from the department.
- 25 2. The purpose of the investigation.
- 26 3. The right to obtain his or her own attorney and
27 ways that the information provided by the subject may be used.
- 28 4. The possible outcomes and services of the
29 department's response shall be explained to the caregiver.
- 30 5. The right of the parent, legal custodian, or
31 caregiver to be involved to the fullest extent possible in

1 determining the nature of the allegation and the nature of any
2 identified problem.

3 (b) The department's training program shall ensure
4 that protective investigators know how to fully inform
5 parents, guardians, and caregivers of their rights and
6 options, including opportunities for audio or video recording
7 of investigators' interviews with parents, guardians,
8 caretakers, or children.

9 (6)~~(3)~~ An assessment of risk and the perceived needs
10 for the child and family shall be conducted in a manner that
11 is sensitive to the social, economic, and cultural environment
12 of the family. This assessment must include a face-to-face
13 interview with the child, other siblings, parents, and other
14 adults in the household and an onsite assessment of the
15 child's residence.

16 (7)~~(4)~~ Protective investigations shall be performed by
17 the department or its agent.

18 (8)~~(5)~~ The person responsible for the investigation
19 shall make a preliminary determination as to whether the
20 report or complaint is complete, consulting with the attorney
21 for the department when necessary. In any case in which the
22 person responsible for the investigation finds that the report
23 or complaint is incomplete, he or she shall return it without
24 delay to the person or agency originating the report or
25 complaint or having knowledge of the facts, or to the
26 appropriate law enforcement agency having investigative
27 jurisdiction, and request additional information in order to
28 complete the report or complaint; however, the confidentiality
29 of any report filed in accordance with this chapter shall not
30 be violated.

31

1 (a) If it is determined that the report or complaint
2 is complete, after determining that such action would be in
3 the best interests of the child, the attorney for the
4 department shall file a petition for dependency.

5 (b) If it is determined that the report or complaint
6 is complete, but the interests of the child and the public
7 will be best served by providing the child care or other
8 treatment voluntarily accepted by the child and the parents,
9 caregivers, or legal custodians, the protective investigator
10 may refer the child for such care or other treatment.

11 (c) If the person conducting the investigation refuses
12 to request the attorney for the department to file a petition
13 for dependency, the complainant shall be advised of the right
14 to file a petition pursuant to this part.

15 (9)~~(6)~~ For each report it receives, the department
16 shall perform an onsite child protective investigation that
17 includes a face-to-face interview with the child, other
18 siblings, parents, and other adults in the household and an
19 onsite assessment of the child's residence in order to:

20 (a) Determine the composition of the family or
21 household, including the name, address, date of birth, social
22 security number, sex, and race of each child named in the
23 report; any siblings or other children in the same household
24 or in the care of the same adults; the parents, legal
25 custodians, or caregivers; and any other adults in the same
26 household.

27 (b) Determine whether there is indication that any
28 child in the family or household has been abused, abandoned,
29 or neglected; the nature and extent of present or prior
30 injuries, abuse, or neglect, and any evidence thereof; and a
31 determination as to the person or persons apparently

1 responsible for the abuse, abandonment, or neglect, including
2 the name, address, date of birth, social security number, sex,
3 and race of each such person.

4 (c) Determine the immediate and long-term risk to each
5 child by conducting state and federal records checks,
6 including, when feasible, the records of the Department of
7 Corrections, on the parents, legal custodians, or caregivers,
8 and any other persons in the same household. This information
9 shall be used solely for purposes supporting the detection,
10 apprehension, prosecution, pretrial release, posttrial
11 release, or rehabilitation of criminal offenders or persons
12 accused of the crimes of child abuse, abandonment, or neglect
13 and shall not be further disseminated or used for any other
14 purpose. The department's child protection investigators are
15 hereby designated a criminal justice agency for the purpose of
16 accessing criminal justice information to be used for
17 enforcing this state's laws concerning the crimes of child
18 abuse, abandonment, and neglect.

19 (d) Determine the immediate and long-term risk to each
20 child through utilization of standardized risk assessment
21 instruments.

22 (e) Based on the information obtained from the
23 caregiver, complete the risk assessment instrument within 48
24 hours after the initial contact and, if needed, develop a case
25 plan.

26 (f) Determine the protective, treatment, and
27 ameliorative services necessary to safeguard and ensure the
28 child's safety and well-being and development, and cause the
29 delivery of those services through the early intervention of
30 the department or its agent.

31

1 ~~(10)(7)~~ If the department or its agent is denied
2 reasonable access to a child by the parents, legal custodians,
3 or caregivers and the department deems that the best interests
4 of the child so require, it shall seek an appropriate court
5 order or other legal authority prior to examining and
6 interviewing the child.

7 (11) Onsite visits and face-to-face interviews with
8 the child or family shall be unannounced unless it is
9 determined by the department or its agent or contract provider
10 that such unannounced visit would threaten the safety of the
11 child.

12 ~~(12)(a)(8)~~ If the department or its agent determines
13 that a child requires immediate or long-term protection
14 through:

15 ~~1.(a)~~ Medical or other health care;

16 ~~2.(b)~~ Homemaker care, day care, protective
17 supervision, or other services to stabilize the home
18 environment, including intensive family preservation services
19 through the Family Builders Program, the Intensive Crisis
20 Counseling Program, or both; or

21 ~~3.(c)~~ Foster care, shelter care, or other substitute
22 care to remove the child from the custody of the parents,
23 legal guardians, or caregivers,

24
25 such services shall first be offered for voluntary acceptance
26 unless there are high-risk factors that may impact the ability
27 of the parents, legal guardians, or caregivers to exercise
28 judgment. Such factors may include the parents', legal
29 guardians', or caregivers' young age or history of substance
30 abuse or domestic violence.

31

1 **(b)** The parents, legal custodians, or caregivers shall
2 be informed of the right to refuse services, as well as the
3 responsibility of the department to protect the child
4 regardless of the acceptance or refusal of services. If the
5 services are refused and the department deems that the child's
6 need for protection so requires, the department shall take the
7 child into protective custody or petition the court as
8 provided in this chapter.

9 **(c)** The department, in consultation with the
10 judiciary, shall adopt by rule criteria that are factors
11 requiring that the department take the child into custody,
12 petition the court as provided in this chapter, or, if the
13 child is not taken into custody or a petition is not filed
14 with the court, conduct an administrative review. If after an
15 administrative review the department determines not to take
16 the child into custody or petition the court, the department
17 shall document the reason for its decision in writing and
18 include it in the investigative file. For all cases that were
19 accepted by the local law enforcement agency pursuant to s.
20 39.301(2), the department must include in the file written
21 documentation that the administrative review included input
22 from law enforcement. In addition, for all cases that must be
23 referred to child protection teams pursuant to s. 39.303(2)
24 and (3), the file must include written documentation that the
25 administrative review included the results of the medical
26 evaluation. Factors that must be included in the development
27 of the rule include noncompliance with the case plan developed
28 by the department, or its agent, and the family under this
29 chapter and prior abuse reports that involve the child or
30 caregiver.

1 (13)~~(9)~~ When a child is taken into custody pursuant to
2 this section, the authorized agent of the department shall
3 request that the child's parent, caregiver, or legal custodian
4 disclose the names, relationships, and addresses of all
5 parents and prospective parents and all next of kin, so far as
6 are known.

7 (14)~~(10)~~ No later than 30 days after receiving the
8 initial report, the local office of the department shall
9 complete its investigation.

10 (15)~~(11)~~ ~~Immediately upon receipt of a report~~
11 ~~alleging, or immediately~~ upon learning during the course of an
12 investigation, that:

13 (a) The immediate safety or well-being of a child is
14 endangered;

15 (b) The family is likely to flee;

16 (c) A child died as a result of abuse, abandonment, or
17 neglect;

18 (d) A child is a victim of aggravated child abuse as
19 defined in s. 827.03; or

20 (e) A child is a victim of sexual battery or of sexual
21 abuse,

22
23 the department shall orally notify the jurisdictionally
24 responsible state attorney, and county sheriff's office or
25 local police department, and, within 3 days ~~as soon as~~
26 ~~practicable~~, transmit the written report to those agencies.

27 The law enforcement agency shall review the report and
28 determine whether a criminal investigation needs to be
29 conducted and shall assume lead responsibility for all
30 criminal fact-finding activities. A criminal investigation
31 shall be coordinated, whenever possible, with the child

1 protective investigation of the department. Any interested
2 person who has information regarding an offense described in
3 this subsection may forward a statement to the state attorney
4 as to whether prosecution is warranted and appropriate.

5 (16)~~(12)~~ In a child protective investigation or a
6 criminal investigation, when the initial interview with the
7 child is conducted at school, the department or the law
8 enforcement agency may allow, notwithstanding the provisions
9 of s. 39.0132(4), a school instructional staff member who is
10 known by the child to be present during the initial interview
11 if:

12 (a) The department or law enforcement agency believes
13 that the school instructional staff member could enhance the
14 success of the interview by his or her presence; and

15 (b) The child requests or consents to the presence of
16 the school instructional staff member at the interview.

17
18 School instructional staff may only be present when authorized
19 by this subsection. Information received during the interview
20 or from any other source regarding the alleged abuse or
21 neglect of the child shall be confidential and exempt from the
22 provisions of s. 119.07(1), except as otherwise provided by
23 court order. A separate record of the investigation of the
24 abuse, abandonment, or neglect shall not be maintained by the
25 school or school instructional staff member. Violation of this
26 subsection constitutes a misdemeanor of the second degree,
27 punishable as provided in s. 775.082 or s. 775.083.

28 (17) When a law enforcement agency is participating in
29 an investigation, the agency shall take photographs of the
30 child's living environment. Such photographs shall become part
31 of the investigative file.

1 ~~(18)~~~~(13)~~ Within 15 days after the completion of the
2 investigation of cases reported to him or her pursuant to this
3 section, the state attorney shall report his or her findings
4 to the department and shall include in such report a
5 determination of whether or not prosecution is justified and
6 appropriate in view of the circumstances of the specific case.

7 (19) In order to enhance the skills of individual
8 staff and to improve the district's overall child protection
9 system, the department's training program at the district
10 level must include periodic reviews of cases handled within
11 the district in order to identify weaknesses as well as
12 examples of effective interventions that occurred at each
13 point in the case.

14 Section 8. Subsection (1) of section 39.302, Florida
15 Statutes, 1998 Supplement, is amended to read:

16 39.302 Protective investigations of institutional
17 child abuse, abandonment, or neglect.--

18 (1) The department shall conduct a child protective
19 investigation of each report of institutional child abuse,
20 abandonment, or neglect. Upon receipt of a report which
21 alleges that an employee or agent of the department, or any
22 other entity or person covered by s. 39.01(32) or (47), acting
23 in an official capacity, has committed an act of child abuse,
24 abandonment, or neglect, the department shall immediately
25 initiate a child protective investigation and orally notify
26 the appropriate state attorney, law enforcement agency, and
27 licensing agency. These agencies shall immediately conduct a
28 joint investigation, unless independent investigations are
29 more feasible. When conducting investigations onsite or having
30 face-to-face interviews with the child, such investigation
31 visits shall be unannounced unless it is determined by the

1 department or its agent that such unannounced visits would
2 threaten the safety of the child. When a facility is exempt
3 from licensing, the department shall inform the owner or
4 operator of the facility of the report. Each agency
5 conducting a joint investigation shall be entitled to full
6 access to the information gathered by the department in the
7 course of the investigation. A protective investigation must
8 include an onsite visit of the child's place of residence.In
9 all cases, the department shall make a full written report to
10 the state attorney within 3 days after making the oral report.
11 A criminal investigation shall be coordinated, whenever
12 possible, with the child protective investigation of the
13 department. Any interested person who has information
14 regarding the offenses described in this subsection may
15 forward a statement to the state attorney as to whether
16 prosecution is warranted and appropriate. Within 15 days after
17 the completion of the investigation, the state attorney shall
18 report the findings to the department and shall include in
19 such report a determination of whether or not prosecution is
20 justified and appropriate in view of the circumstances of the
21 specific case.

22 Section 9. Section 39.303, Florida Statutes, 1998
23 Supplement, is amended to read:

24 39.303 Child protection teams; services; eligible
25 cases.--The Division of Children's Medical Services of the
26 Department of Health shall develop, maintain, and coordinate
27 the services of one or more multidisciplinary child protection
28 teams in each of the service districts of the Department of
29 Children and Family Services. Such teams may be composed of
30 appropriate representatives of school districts and
31 appropriate health, mental health, social service, legal

1 service, and law enforcement agencies. The Legislature finds
2 that optimal coordination of child protection teams and sexual
3 abuse treatment programs requires collaboration between the
4 Department of Health and the Department of Children and Family
5 Services. The two departments shall maintain an interagency
6 agreement that establishes protocols for oversight and
7 operations of child protection teams and sexual abuse
8 treatment programs. The Secretary of Health and the Deputy
9 Secretary for Children's Medical Services, in consultation
10 with the Secretary of Children and Family Services, shall
11 maintain the responsibility for the screening, employment,
12 and, if necessary, the termination of child protection team
13 medical directors, at headquarters and in the 15 districts.
14 Child protection team medical directors shall be responsible
15 for oversight of the teams in the districts.

16 (1) The Department of Health shall utilize and convene
17 the teams to supplement the assessment and protective
18 supervision activities of the family safety and preservation
19 program of the Department of Children and Family Services.
20 Nothing in this section shall be construed to remove or reduce
21 the duty and responsibility of any person to report pursuant
22 to this chapter all suspected or actual cases of child abuse,
23 abandonment, or neglect or sexual abuse of a child. The role
24 of the teams shall be to support activities of the program and
25 to provide services deemed by the teams to be necessary and
26 appropriate to abused, abandoned, and neglected children upon
27 referral. The specialized diagnostic assessment, evaluation,
28 coordination, consultation, and other supportive services that
29 a child protection team shall be capable of providing include,
30 but are not limited to, the following:

31

1 (a) Medical diagnosis and evaluation services,
2 including provision or interpretation of X rays and laboratory
3 tests, and related services, as needed, and documentation of
4 findings relative thereto.

5 (b) Telephone consultation services in emergencies and
6 in other situations.

7 (c) Medical evaluation related to abuse, abandonment,
8 or neglect, as defined by policy or rule of the Department of
9 Health.

10 (d) Such psychological and psychiatric diagnosis and
11 evaluation services for the child or the child's parent or
12 parents, legal custodian or custodians, or other caregivers,
13 or any other individual involved in a child abuse,
14 abandonment, or neglect case, as the team may determine to be
15 needed.

16 (e) Expert medical, psychological, and related
17 professional testimony in court cases.

18 (f) Case staffings to develop treatment plans for
19 children whose cases have been referred to the team. A child
20 protection team may provide consultation with respect to a
21 child who is alleged or is shown to be abused, abandoned, or
22 neglected, which consultation shall be provided at the request
23 of a representative of the family safety and preservation
24 program or at the request of any other professional involved
25 with a child or the child's parent or parents, legal custodian
26 or custodians, or other caregivers. In every such child
27 protection team case staffing, consultation, or staff activity
28 involving a child, a family safety and preservation program
29 representative shall attend and participate.

30
31

1 (g) Case service coordination and assistance,
2 including the location of services available from other public
3 and private agencies in the community.

4 (h) Such training services for program and other
5 employees of the Department of Children and Family Services,
6 employees of the Department of Health, and other medical
7 professionals as is deemed appropriate to enable them to
8 develop and maintain their professional skills and abilities
9 in handling child abuse, abandonment, and neglect cases.

10 (i) Educational and community awareness campaigns on
11 child abuse, abandonment, and neglect in an effort to enable
12 citizens more successfully to prevent, identify, and treat
13 child abuse, abandonment, and neglect in the community.

14 (2) The child abuse, abandonment, and neglect reports
15 ~~cases that must be referred are appropriate for referral~~ by
16 the Department of Children and Family Services family safety
17 ~~and preservation program~~ to child protection teams of the
18 Department of Health for medical evaluation and available
19 support services as set forth in subsection (1) must include,
20 ~~but are not limited to,~~ cases involving:

21 (a) Bruises, burns, or fractures in a child ~~under the~~
22 ~~age of 3 years or in a nonambulatory child of any age.~~

23 ~~(b) Unexplained or implausibly explained bruises,~~
24 ~~burns, fractures, or other injuries in a child of any age.~~

25 (b)(c) Sexual abuse of a child in which vaginal or
26 anal penetration is alleged or in which other unlawful sexual
27 conduct has been determined to have occurred.

28 (c)(d) Venereal disease, or any other sexually
29 transmitted disease, in a prepubescent child.

30 (d)(e) Reported malnutrition of a child and failure of
31 a child to thrive.

1 ~~(e)(f)~~ Reported medical, physical, or emotional
2 neglect of a child.

3 ~~(f)(g)~~ Any family in which one or more children have
4 been pronounced dead on arrival at a hospital or other health
5 care facility, or have been injured and later died, as a
6 result of suspected abuse, abandonment, or neglect, when any
7 sibling or other child remains in the home.

8 ~~(g)(h)~~ Symptoms of serious emotional problems in a
9 child when emotional or other abuse, abandonment, or neglect
10 is suspected.

11 (h) Injuries to a child's head.

12 (3) All abuse and neglect cases transmitted for
13 investigation to a district by the hotline must be
14 simultaneously transmitted to the Department of Health child
15 protection team for review. All cases transmitted to the child
16 protection team which meet the criteria in s. 39.303(2) must
17 be timely reviewed by a board certified pediatrician or
18 registered nurse practitioner under the supervision of such
19 pEDIatrician for the purpose of determining whether a
20 face-to-face medical evaluation by a child protection team is
21 necessary. Such face-to-face medical evaluation is not
22 necessary only if it is determined that the child was examined
23 by a physician for the alleged abuse or neglect, and a
24 consultation between the child protection team board-certified
25 pEDIatrician or nurse practitioner and the examining physician
26 concludes that a further medical evaluation is unnecessary.

27 ~~(4)(3)~~ In all instances in which a child protection
28 team is providing certain services to abused, abandoned, or
29 neglected children, other offices and units of the Department
30 of Health, and offices and units of the Department of Children
31

1 and Family Services, shall avoid duplicating the provision of
2 those services.

3 Section 10. Subsection (1) of section 39.304, Florida
4 Statutes, 1998 Supplement, is amended to read:

5 39.304 Photographs, medical examinations, X rays, and
6 medical treatment of abused, abandoned, or neglected child.--

7 (1)(a) Any person required to investigate cases of
8 suspected child abuse, abandonment, or neglect may take or
9 cause to be taken photographs of the areas of trauma visible
10 on a child who is the subject of a report. Any child
11 protection team that examines a child who is the subject of a
12 report must take, or cause to be taken, photographs of any
13 areas of trauma visible on the child. Such photographs, or
14 duplicates thereof, shall be provided to the department for
15 inclusion in the investigative file and shall become part of
16 that file.

17 (b) If the areas of trauma visible on a child indicate
18 a need for a medical examination, or if the child verbally
19 complains or otherwise exhibits distress as a result of injury
20 through suspected child abuse, abandonment, or neglect, or is
21 alleged to have been sexually abused, the person required to
22 investigate may cause the child to be referred for diagnosis
23 to a licensed physician or an emergency department in a
24 hospital without the consent of the child's parents,
25 caregiver, or legal custodian. Such examination may be
26 performed by an advanced registered nurse practitioner
27 licensed pursuant to chapter 464. Any licensed physician, or
28 advanced registered nurse practitioner licensed pursuant to
29 chapter 464, who has reasonable cause to suspect that an
30 injury was the result of child abuse, abandonment, or neglect
31 may authorize a radiological examination to be performed on

1 the child without the consent of the child's parent,
2 caregiver, or legal custodian.

3 Section 11. Section 39.306, Florida Statutes, 1998
4 Supplement, is amended to read:

5 39.306 Child protective investigations; working
6 agreements with local law enforcement.--The department shall
7 enter into agreements with the jurisdictionally responsible
8 county sheriffs' offices and local police departments that
9 will assume the lead in conducting any potential criminal
10 investigations arising from allegations of child abuse,
11 abandonment, or neglect. The written agreement must specify
12 how the requirements of this chapter will be met. For the
13 purposes of such agreement, the jurisdictionally responsible
14 law enforcement entity is authorized to share Florida criminal
15 history and local criminal history information that is not
16 otherwise exempt from s. 119.07(1) with the district
17 personnel, authorized agent, or contract provider directly
18 responsible for the child protective investigation and
19 emergency child placement. The agencies entering into such
20 agreement must comply with s. 943.0525. Criminal justice
21 information provided by such law enforcement entity shall be
22 used only for the purposes specified in the agreement and
23 shall be provided at no charge. Notwithstanding any other
24 provision of law, the Department of Law Enforcement shall
25 provide to the department electronic access to Florida
26 criminal justice information which is lawfully available and
27 not exempt from s. 119.07(1), only for the purpose of child
28 protective investigations and emergency child placement. As a
29 condition of access to such information, the department shall
30 be required to execute an appropriate user agreement
31 addressing the access, use, dissemination, and destruction of

1 such information and to comply with all applicable laws and
2 regulations, and rules of the Department of Law Enforcement.

3 Section 12. Subsection (8) of section 39.402, Florida
4 Statutes, 1998 Supplement, is amended to read:

5 39.402 Placement in a shelter.--

6 (8)(a) A child may not be held in a shelter longer
7 than 24 hours unless an order so directing is entered by the
8 court after a shelter hearing. In the interval until the
9 shelter hearing is held, the decision to place the child in a
10 shelter or release the child from a shelter lies with the
11 protective investigator.

12 (b) The parents or legal custodians of the child shall
13 be given such notice as best ensures their actual knowledge of
14 the time and place of the shelter hearing. The failure to
15 provide notice to a party or participant does not invalidate
16 an order placing a child in a shelter if the court finds that
17 the petitioner has made a good faith effort to provide such
18 notice. The court shall require the parents or legal
19 custodians present at the hearing to provide to the court on
20 the record the names, addresses, and relationships of all
21 parents, prospective parents, and next of kin of the child, so
22 far as are known.

23 (c) At the shelter hearing, the court shall:

24 1. Appoint a guardian ad litem to represent the child,
25 unless the court finds that such representation is
26 unnecessary;

27 2. Inform the parents or legal custodians of their
28 right to counsel to represent them at the shelter hearing and
29 at each subsequent hearing or proceeding, and the right of the
30 parents to appointed counsel, pursuant to the procedures set
31 forth in s. 39.013; and

1 3. Give the parents or legal custodians an opportunity
2 to be heard and to present evidence.

3 (d) At the shelter hearing, in order to continue the
4 child in shelter care:

5 1. The department must establish probable cause that
6 reasonable grounds for removal exist and that the provision of
7 appropriate and available services will not eliminate the need
8 for placement; or-

9 2. The court must determine that additional time is
10 necessary, which may not exceed 72 hours, in which to obtain
11 and review documents pertaining to the family in order to
12 appropriately determine the risk to the child during which
13 time the child shall remain in the department's custody, if so
14 ordered by the court.

15 (e) At the shelter hearing, the department shall
16 provide the court copies of any available law enforcement,
17 medical, or other professional reports, and shall also provide
18 copies of abuse hotline reports pursuant to state and federal
19 confidentiality requirements.

20 (f) At the shelter hearing, the department shall
21 inform the court of:

22 1. Any current or previous case plans negotiated in
23 any district with the parents or caregivers under this chapter
24 and problems associated with compliance;

25 2. Any adjudication of the parents or caregivers of
26 delinquency;

27 3. Any past or current injunction for protection from
28 domestic violence; and

29 4. All of the child's places of residence during the
30 prior 12 months.

31

1 (g)~~(e)~~ At the shelter hearing, each party shall
2 provide to the court a permanent mailing address. The court
3 shall advise each party that this address will be used by the
4 court and the petitioner for notice purposes unless and until
5 the party notifies the court and the petitioner in writing of
6 a new mailing address.

7 (h)~~(f)~~ The order for placement of a child in shelter
8 care must identify the parties present at the hearing and must
9 contain written findings:

10 1. That placement in shelter care is necessary based
11 on the criteria in subsections (1) and (2).

12 2. That placement in shelter care is in the best
13 interest of the child.

14 3. That continuation of the child in the home is
15 contrary to the welfare of the child because the home
16 situation presents a substantial and immediate danger to the
17 child's physical, mental, or emotional health or safety which
18 cannot be mitigated by the provision of preventive services.

19 4. That based upon the allegations of the petition for
20 placement in shelter care, there is probable cause to believe
21 that the child is dependent or that the court needs additional
22 time, which may not exceed 72 hours, in which to obtain and
23 review documents pertaining to the family in order to
24 appropriately determine the risk to the child.

25 5. That the department has made reasonable efforts to
26 prevent or eliminate the need for removal of the child from
27 the home. A finding of reasonable effort by the department to
28 prevent or eliminate the need for removal may be made and the
29 department is deemed to have made reasonable efforts to
30 prevent or eliminate the need for removal if:

31

1 a. The first contact of the department with the family
2 occurs during an emergency.

3 b. The appraisal of the home situation by the
4 department indicates that the home situation presents a
5 substantial and immediate danger to the child's physical,
6 mental, or emotional health or safety which cannot be
7 mitigated by the provision of preventive services.

8 c. The child cannot safely remain at home, either
9 because there are no preventive services that can ensure the
10 health and safety of the child or because, even with
11 appropriate and available services being provided, the health
12 and safety of the child cannot be ensured.

13 6. That the court notified the parents or legal
14 custodians of the subsequent dependency proceedings, including
15 scheduled hearings, and of the importance of the active
16 participation of the parents or legal custodians in those
17 subsequent proceedings and hearings.

18 7. That the court notified the parents or legal
19 custodians of their right to counsel to represent them at the
20 shelter hearing and at each subsequent hearing or proceeding,
21 and the right of the parents to appointed counsel, pursuant to
22 the procedures set forth in s. 39.013.

23 Section 13. Section 383.402, Florida Statutes, is
24 created to read:

25 383.402 Child abuse death review; State Child Abuse
26 Death Review Committee; local child abuse death review
27 committees.--

28 (1) It is the intent of the Legislature to establish a
29 statewide multidisciplinary, multiagency child abuse death
30 assessment and prevention system that consists of state and
31 local review committees. The state and local review committees

1 shall review the facts and circumstances of all deaths of
2 children from birth through age 18 which occur in this state
3 as the result of child abuse or neglect and for whom at least
4 one report of abuse or neglect was accepted by the central
5 abuse hotline within the Department of Children and Family
6 Services. The purpose of the review shall be to:

7 (a) Achieve a greater understanding of the causes and
8 contributing factors of deaths resulting from child abuse.

9 (b) Whenever possible, develop a communitywide
10 approach to address such cases and contributing factors.

11 (c) Identify any gaps, deficiencies, or problems in
12 the delivery of services to children and their families by
13 public and private agencies which may be related to deaths
14 that are the result of child abuse.

15 (d) Make and implement recommendations for changes in
16 law, rules, and policies, as well as develop practice
17 standards that support the safe and healthy development of
18 children and reduce preventable child abuse deaths.

19 (2)(a) The State Child Abuse Death Review Committee is
20 established within the Department of Health and shall consist
21 of a representative of the Department of Health, appointed by
22 the Secretary of Health, who shall serve as the state
23 committee coordinator. The head of each of the following
24 agencies or organizations shall also appoint a representative
25 to the state committee:

- 26 1. The Department of Legal Affairs.
- 27 2. The Department of Children and Family Services.
- 28 3. The Department of Law Enforcement.
- 29 4. The Department of Education.
- 30 5. The Florida Prosecuting Attorneys Association, Inc.

31

1 6. The Florida Medical Examiners Commission, whose
2 representative must be a forensic pathologist.

3 (b) In addition, the Secretary of Health shall appoint
4 the following members to the state committee, based on
5 recommendations from the Department of Health and the agencies
6 listed in paragraph (a), and ensuring that the committee
7 represents the regional, gender, and ethnic diversity of the
8 state to the greatest extent possible:

9 1. A board-certified pediatrician.

10 2. A public health nurse.

11 3. A mental health professional who treats children or
12 adolescents.

13 4. An employee of the Department of Children and
14 Family Services who supervises family services counselors and
15 who has at least 5 years of experience in child protective
16 investigations.

17 5. The medical director of a child protection team.

18 6. A member of a child advocacy organization.

19 7. A social worker who has experience in working with
20 victims and perpetrators of child abuse.

21 8. A person trained as a paraprofessional in patient
22 resources who is employed in a child abuse prevention program.

23 9. A law enforcement officer who has at least 5 years
24 of experience in children's issues.

25 10. A representative of the Florida Coalition Against
26 Domestic Violence.

27 11. A representative from a private provider of
28 programs on preventing child abuse and neglect.

29 (3) The State Child Abuse Death Review Committee
30 shall:

31

1 (a) Develop a system for collecting data on deaths
2 that are the result of child abuse. The system must include a
3 protocol for the uniform collection of data statewide, which
4 uses existing data-collection systems to the greatest extent
5 possible.

6 (b) Provide training to cooperating agencies,
7 individuals, and local child abuse death review committees on
8 the use of the child abuse death data system.

9 (c) Prepare an annual statistical report on the
10 incidence and causes of death resulting from child abuse in
11 the state during the prior calendar year. The state committee
12 shall submit a copy of the report by September 30 of each year
13 to the Governor, the President of the Senate, and the Speaker
14 of the House of Representatives, with the first annual report
15 due on September 30, 2000. The report must include
16 recommendations for state and local action, including specific
17 policy, procedural, regulatory, or statutory changes, and any
18 other recommended preventive action.

19 (d) Encourage and assist in developing the local child
20 abuse death review committees.

21 (e) Develop guidelines, standards, and protocols,
22 including a protocol for data collection, for local child
23 abuse death review committees, and provide training and
24 technical assistance to local committees.

25 (f) Develop guidelines for reviewing deaths that are
26 the result of child abuse, including guidelines to be used by
27 law enforcement agencies, prosecutors, medical examiners,
28 health care practitioners, health care facilities, and social
29 service agencies.

30 (g) Study the adequacy of laws, rules, training, and
31 services to determine what changes are needed to decrease the

1 incidence of child abuse deaths and develop strategies and
2 recruit partners to implement these changes.

3 (h) Provide consultation on individual cases to local
4 committees upon request.

5 (i) Educate the public regarding the Kayla McKean
6 Child Protection Act, the incidence and causes of child abuse
7 death, and ways by which such deaths may be prevented.

8 (j) Promote continuing education for professionals who
9 investigate, treat, and prevent child abuse or neglect.

10 (k) Recommend, when appropriate, the review of the
11 death certificate of a child who died as a result of abuse or
12 neglect.

13 (4) The members of the state committee shall be
14 appointed to staggered terms of office which may not exceed 2
15 years, as determined by the Secretary of Health. Members are
16 eligible for reappointment. The state committee shall elect a
17 chairperson from among its members to serve for a 2-year term,
18 and the chairperson may appoint ad hoc committees as necessary
19 to carry out the duties of the committee.

20 (5) Members of the state committee shall serve without
21 compensation but are entitled to reimbursement for per diem
22 and travel expenses incurred in the performance of their
23 duties as provided in s. 112.061 and to the extent that funds
24 are available.

25 (6) At the direction of the Secretary of Health, the
26 director of each county health department, or the directors of
27 two or more county health departments by agreement, may
28 convene and support a county or multicounty child abuse death
29 review committee in accordance with the protocols established
30 by the State Child Abuse Death Review Committee. Each local
31 committee must include a local state attorney, or his or her

1 designee, and any other members that are determined by
2 guidelines developed by the State Child Abuse Death Review
3 Committee. The members of a local committee shall be appointed
4 to 2-year terms and may be reappointed. The local committee
5 shall elect a chairperson from among its members. Members
6 shall serve without compensation but are entitled to
7 reimbursement for per diem and travel expenses incurred in the
8 performance of their duties as provided in s. 112.061 and to
9 the extent that funds are available.

10 (7) Each local child abuse death review committee
11 shall:

12 (a) Review all deaths resulting from child abuse which
13 are reported to the Office of Vital Statistics.

14 (b) Assist the state committee in collecting data on
15 deaths that are the result of child abuse, in accordance with
16 the protocol established by the state committee.

17 (c) Submit written reports at the direction of the
18 state committee. The reports must include nonidentifying
19 information on individual cases and the steps taken by the
20 local committee and private and public agencies to implement
21 necessary changes and improve the coordination of services and
22 reviews.

23 (d) Submit all records requested by the state
24 committee at the conclusion of its review of a death resulting
25 from child abuse.

26 (e) Abide by the standards and protocols developed by
27 the state committee.

28 (f) On a case-by-case basis, request that the state
29 committee review the data of a particular case.

30 (8) Notwithstanding any other law, the chairperson of
31 the State Child Abuse Death Review Committee, or the

1 chairperson of a local committee, shall be provided with
2 access to any information or records that pertain to a child
3 whose death is being reviewed by the committee and that are
4 necessary for the committee to carry out its duties, including
5 information or records that pertain to the child's family, as
6 follows:

7 (a) Patient records in the possession of a public or
8 private provider of medical, dental, or mental health care,
9 including, but not limited to, a facility licensed under
10 chapter 393, chapter 394, or chapter 395, or a health care
11 practitioner as defined in s. 455.501. Providers may charge a
12 fee for copies not to exceed 50 cents per page for paper
13 records and \$1 per fiche for microfiche records.

14 (b) Information or records of any state agency or
15 political subdivision which might assist a committee in
16 reviewing a child's death, including, but not limited to,
17 information or records of the Department of Children and
18 Family Services, the Department of Health, the Department of
19 Education, or the Department of Juvenile Justice.

20 (9) The State Child Abuse Death Review Committee or a
21 local committee shall have access to all information of a law
22 enforcement agency which is not the subject of an active
23 investigation and which pertains to the review of the death of
24 a child. A committee may not disclose any information that is
25 not subject to public disclosure by the law enforcement
26 agency, and active criminal intelligence information or
27 criminal investigative information, as defined in s.
28 119.011(3), may not be made available for review or access
29 under this section.

30
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1 (10) The state committee and any local committee may
2 share any relevant information that pertains to the review of
3 the death of a child.

4 (11) A member of the state committee or a local
5 committee may not contact, interview, or obtain information by
6 request or subpoena directly from a member of a deceased
7 child's family as part of a committee's review of a child
8 abuse death, except that if a committee member is also a
9 public officer or state employee, that member may contact,
10 interview, or obtain information from a member of the deceased
11 child's family, if necessary, as part of the committee's
12 review. A member of the deceased child's family may
13 voluntarily provide records or information to the state
14 committee or a local committee.

15 (12) The chairperson of the State Child Abuse Death
16 Review Committee may require the production of records by
17 requesting a subpoena, through the Department of Legal
18 Affairs, in any county of the state. Such subpoena is
19 effective throughout the state and may be served by any
20 sheriff. Failure to obey the subpoena is punishable as
21 provided by law.

22 (13) This section does not authorize the members of
23 the state committee or any local committee to have access to
24 any grand jury proceedings.

25 (14) A person who has attended a meeting of the state
26 committee or a local committee or who has otherwise
27 participated in activities authorized by this section may not
28 be permitted or required to testify in any civil, criminal, or
29 administrative proceeding as to any records or information
30 produced or presented to a committee during meetings or other
31 activities authorized by this section. However, this

1 subsection does not prevent any person who testifies before
2 the committee or who is a member of the committee from
3 testifying as to matters otherwise within his or her
4 knowledge. An organization, institution, committee member, or
5 other person who furnishes information, data, reports, or
6 records to the state committee or a local committee is not
7 liable for damages to any person and is not subject to any
8 other civil or criminal or administrative recourse. This
9 subsection does not apply to any person who admits to
10 committing a crime.

11 (15) The Department of Health shall administer the
12 funds appropriated to operate the review committees and may
13 apply for grants and accept donations.

14 (16) To the extent that funds are available, the
15 Department of Health may hire staff or consultants to assist a
16 review committee in performing its duties. Funds may also be
17 used to reimburse reasonable expenses of the staff and
18 consultants for the state committee and the local committees.

19 (17) For the purpose of carrying out the
20 responsibilities assigned to the State Child Abuse Death
21 Review Committee and the local review committees, the
22 Secretary of Health may substitute an existing entity whose
23 function and organization include the function and
24 organization of the committees established by this section.

25 (18) Each district administrator of the Department of
26 Children and Family Services must appoint a child abuse death
27 review coordinator for the district. The coordinator must have
28 knowledge and expertise in the area of child abuse and
29 neglect. The coordinator's general responsibilities include:

30 (a) Coordinating with the local child abuse death
31 review committee.

1 (b) Ensuring the appropriate implementation of the
2 child abuse death review process and all district activities
3 related to the review of child abuse deaths.

4 (c) Working with the committee to ensure that the
5 reviews are thorough and that all issues are appropriately
6 addressed.

7 (d) Maintaining a system of logging child abuse deaths
8 covered by this procedure and tracking cases during the child
9 abuse death review process.

10 (e) Conducting or arranging for a Florida Abuse
11 Hotline Information System (FAHIS) record check on all child
12 abuse deaths covered by this procedure to determine whether
13 there were any prior reports concerning the child or
14 concerning any siblings, other children, or adults in the
15 home.

16 (f) Coordinating child abuse death review activities,
17 as needed, with individuals in the community and the
18 Department of Health.

19 (g) Notifying the district administrator, the
20 Secretary of the Department of Children and Family Services,
21 and the Deputy Secretary of Children's Medical Services
22 Assistant Health Officer of all child abuse deaths meeting
23 criteria for review as specified in this section within 1
24 working day after learning of the child's death.

25 (h) Ensuring that all critical issues identified by
26 the Child Abuse Death Review Committee are brought to the
27 attention of the district administrator and the Secretary of
28 the Department of Children and Family Services.

29 (i) Providing technical assistance to the Child Abuse
30 Death Review Committee during the review of any child abuse
31 death.

1 Section 14. Present subsections (3), (4), (5), and (6)
2 of section 409.1671, Florida Statutes, 1998 Supplement, are
3 redesignated as subsections (4), (5), (6), and (7),
4 respectively, and a new subsection (3) is added to that
5 section, to read:

6 409.1671 Foster care and related services;
7 privatization.--

8 (3)(a) In order to help assure a seamless child
9 protection system, the department shall ensure that contracts
10 entered into with community-based agencies pursuant to this
11 section include provisions for a case-transfer process to
12 determine the date that the community-based agency will
13 initiate the appropriate services for a child and family. This
14 case-transfer process must clearly identify the closure of the
15 protective investigation and the initiation of service
16 provision. At the point of case transfer, the department must
17 provide a complete summary of the findings of the
18 investigation to the community-based agency.

19 (b) The contracts must also assure that each
20 community-based agency shall furnish regular status reports of
21 its cases to the department as specified in the contract. A
22 provider may not discontinue services without prior written
23 notification to the department. After discontinuing services
24 to a child or a child and family, the community-based agency
25 must provide a written case summary, including its assessment
26 of the child and family, to the department.

27 (c) The annual contract between the department and
28 community-based agencies must include provisions that specify
29 the procedures to be used by the parties to resolve
30 differences in interpreting the contract or to resolve
31

1 disputes as to the adequacy of the parties' compliance with
2 their respective obligations under the contract.

3 Section 15. Section 777.03, Florida Statutes, as
4 amended by section 16 of chapter 97-194, Laws of Florida, is
5 amended to read:

6 777.03 Accessory after the fact.--

7 (1)(a) Any person not standing in the relation of
8 husband or wife, parent or grandparent, child or grandchild,
9 brother or sister, by consanguinity or affinity to the
10 offender, who maintains or assists the principal or accessory
11 before the fact, or gives the offender any other aid, knowing
12 that the offender had committed a felony or been accessory
13 thereto before the fact, with intent that the offender avoids
14 or escapes detection, arrest, trial or punishment, is an
15 accessory after the fact.

16 (b) Any person, regardless of the relation to the
17 offender, who maintains or assists the principal or accessory
18 before the fact, or gives the offender any other aid, knowing
19 that the offender had committed the offense of child abuse,
20 neglect of a child, aggravated child abuse, aggravated
21 manslaughter of a child under 18 years of age, or murder of a
22 child under 18 years of age, or had been accessory thereto
23 before the fact, with the intent that the offender avoids or
24 escapes detection, arrest, trial, or punishment, is an
25 accessory after the fact unless the court finds that the
26 person is a victim of domestic violence.

27 (2)(a) If the felony offense committed is a capital
28 felony, the offense of accessory after the fact is a felony of
29 the first degree, punishable as provided in s. 775.082, s.
30 775.083, or s. 775.084.

31

1 (b) If the felony offense committed is a life felony
2 or a felony of the first degree, the offense of accessory
3 after the fact is a felony of the second degree, punishable as
4 provided in s. 775.082, s. 775.083, or s. 775.084.

5 (c) If the felony offense committed is a felony of the
6 second degree or a felony of the third degree ranked in level
7 3, 4, 5, 6, 7, 8, 9, or 10 under s. 921.0022 or s. 921.0023,
8 the offense of accessory after the fact is a felony of the
9 third degree, punishable as provided in s. 775.082, s.
10 775.083, or s. 775.084.

11 (d) If the felony offense committed is a felony of the
12 third degree ranked in level 1 or level 2 under s. 921.0022 or
13 s. 921.0023, the offense of accessory after the fact is a
14 misdemeanor of the first degree, punishable as provided in s.
15 775.082, s. 775.083, or s. 775.084.

16 (3) Except as otherwise provided in s. 921.0022, for
17 purposes of sentencing under chapter 921 and determining
18 incentive gain-time eligibility under chapter 944, the offense
19 of accessory after the fact is ranked two levels below the
20 ranking under s. 921.0022 or s. 921.0023 of the felony offense
21 committed.

22 Section 16. Subsection (2) of section 827.03, Florida
23 Statutes, is amended to read:

24 827.03 Abuse, aggravated abuse, and neglect of a
25 child; penalties.--

26 (2) "Aggravated child abuse" occurs when a person:

27 (a) Commits aggravated battery on a child;

28 (b) Willfully tortures, maliciously punishes, or
29 willfully and unlawfully cages a child; or

30
31

1 (c) Knowingly or willfully abuses a child and in so
2 doing causes great bodily harm, permanent disability, or
3 permanent disfigurement to the child.

4
5 A person who commits aggravated child abuse commits a felony
6 of the first ~~second~~ degree, punishable as provided in s.
7 775.082, s. 775.083, or s. 775.084.

8 Section 17. Paragraphs (h), (i), and (j) of subsection
9 (3) of section 921.0022, Florida Statutes, 1998 Supplement,
10 are amended to read:

11 921.0022 Criminal Punishment Code; offense severity
12 ranking chart.--

13 (3) OFFENSE SEVERITY RANKING CHART

14	15 Florida	16 Statute	17 Felony	18 Degree	19 Description
20					(h) LEVEL 8
21		316.193	(3)(c)3.a.	2nd	DUI manslaughter.
22		327.35(3)(c)3.		2nd	Vessel BUI manslaughter.
23		777.03(2)(a)		1st	Accessory after the fact, capital 24 felony.
25		782.04(4)		2nd	Killing of human without design 26 when engaged in act or attempt of 27 any felony other than arson, 28 sexual battery, robbery, 29 burglary, kidnapping, aircraft 30 piracy, or unlawfully discharging 31 bomb.

1	782.051(2)	1st	Attempted felony murder while
2			perpetrating or attempting to
3			perpetrate a felony not
4			enumerated in s. 782.04(3).
5	782.071(2)	2nd	Committing vehicular homicide and
6			failing to render aid or give
7			information.
8	782.072(2)	2nd	Committing vessel homicide and
9			failing to render aid or give
10			information.
11	790.161(3)	1st	Discharging a destructive device
12			which results in bodily harm or
13			property damage.
14	794.011(5)	2nd	Sexual battery, victim 12 years
15			or over, offender does not use
16			physical force likely to cause
17			serious injury.
18	806.01(1)	1st	Maliciously damage dwelling or
19			structure by fire or explosive,
20			believing person in structure.
21	810.02(2)(a)	1st,PBL	Burglary with assault or battery.
22	810.02(2)(b)	1st,PBL	Burglary; armed with explosives
23			or dangerous weapon.
24	810.02(2)(c)	1st	Burglary of a dwelling or
25			structure causing structural
26			damage or \$1,000 or more property
27			damage.
28	812.13(2)(b)	1st	Robbery with a weapon.
29	812.135(2)	1st	Home-invasion robbery.
30	825.102(2)	2nd	Aggravated abuse of an elderly
31			person or disabled adult.

1	825.103(2)(a)	1st	Exploiting an elderly person or
2			disabled adult and property is
3			valued at \$100,000 or more.
4	827.03(2)	2nd	Aggravated child abuse.
5	837.02(2)	2nd	Perjury in official proceedings
6			relating to prosecution of a
7			capital felony.
8	837.021(2)	2nd	Making contradictory statements
9			in official proceedings relating
10			to prosecution of a capital
11			felony.
12	860.121(2)(c)	1st	Shooting at or throwing any
13			object in path of railroad
14			vehicle resulting in great bodily
15			harm.
16	860.16	1st	Aircraft piracy.
17	893.13(1)(b)	1st	Sell or deliver in excess of 10
18			grams of any substance specified
19			in s. 893.03(1)(a) or (b).
20	893.13(2)(b)	1st	Purchase in excess of 10 grams of
21			any substance specified in s.
22			893.03(1)(a) or (b).
23	893.13(6)(c)	1st	Possess in excess of 10 grams of
24			any substance specified in s.
25			893.03(1)(a) or (b).
26	893.135(1)(a)2.	1st	Trafficking in cannabis, more
27			than 2,000 lbs., less than 10,000
28			lbs.
29	893.135		
30	(1)(b)1.b.	1st	Trafficking in cocaine, more than
31			200 grams, less than 400 grams.

1	893.135		
2	(1)(c)1.b.	1st	Trafficking in illegal drugs,
3			more than 14 grams, less than 28
4			grams.
5	893.135		
6	(1)(d)1.b.	1st	Trafficking in phencyclidine,
7			more than 200 grams, less than
8			400 grams.
9	893.135		
10	(1)(e)1.b.	1st	Trafficking in methaqualone, more
11			than 5 kilograms, less than 25
12			kilograms.
13	893.135		
14	(1)(f)1.b.	1st	Trafficking in amphetamine, more
15			than 28 grams, less than 200
16			grams.
17	893.135		
18	(1)(g)1.b.	1st	Trafficking in flunitrazepam, 14
19			grams or more, less than 28
20			grams.
21	895.03(1)	1st	Use or invest proceeds derived
22			from pattern of racketeering
23			activity.
24	895.03(2)	1st	Acquire or maintain through
25			racketeering activity any
26			interest in or control of any
27			enterprise or real property.
28	895.03(3)	1st	Conduct or participate in any
29			enterprise through pattern of
30			racketeering activity.
31			(i) LEVEL 9

1	316.193		
2	(3)(c)3.b.	1st	DUI manslaughter; failing to
3			render aid or give information.
4	782.04(1)	1st	Attempt, conspire, or solicit to
5			commit premeditated murder.
6	782.04(3)	1st,PBL	Accomplice to murder in
7			connection with arson, sexual
8			battery, robbery, burglary, and
9			other specified felonies.
10	782.051(1)	1st	Attempted felony murder while
11			perpetrating or attempting to
12			perpetrate a felony enumerated in
13			s. 782.04(3).
14	782.07(2)	1st	Aggravated manslaughter of an
15			elderly person or disabled adult.
16	782.07(3)	1st	Aggravated manslaughter of a
17			child.
18	787.01(1)(a)1.	1st,PBL	Kidnapping; hold for ransom or
19			reward or as a shield or hostage.
20	787.01(1)(a)2.	1st,PBL	Kidnapping with intent to commit
21			or facilitate commission of any
22			felony.
23	787.01(1)(a)4.	1st,PBL	Kidnapping with intent to
24			interfere with performance of any
25			governmental or political
26			function.
27	787.02(3)(a)	1st	False imprisonment; child under
28			age 13; perpetrator also commits
29			child abuse, sexual battery,
30			lewd, or lascivious act, etc.
31			

1	790.161	1st	Attempted capital destructive
2			device offense.
3	794.011(2)	1st	Attempted sexual battery; victim
4			less than 12 years of age.
5	794.011(2)	Life	Sexual battery; offender younger
6			than 18 years and commits sexual
7			battery on a person less than 12
8			years.
9	794.011(4)	1st	Sexual battery; victim 12 years
10			or older, certain circumstances.
11	794.011(8)(b)	1st	Sexual battery; engage in sexual
12			conduct with minor 12 to 18 years
13			by person in familial or
14			custodial authority.
15	812.13(2)(a)	1st,PBL	Robbery with firearm or other
16			deadly weapon.
17	812.133(2)(a)	1st,PBL	Carjacking; firearm or other
18			deadly weapon.
19	<u>827.03(2)</u>	<u>1st</u>	<u>Aggravated child abuse.</u>
20	847.0145(1)	1st	Selling, or otherwise
21			transferring custody or control,
22			of a minor.
23	847.0145(2)	1st	Purchasing, or otherwise
24			obtaining custody or control, of
25			a minor.
26	859.01	1st	Poisoning food, drink, medicine,
27			or water with intent to kill or
28			injure another person.
29	893.135	1st	Attempted capital trafficking
30			offense.
31			

1	893.135(1)(a)3.	1st	Trafficking in cannabis, more
2			than 10,000 lbs.
3	893.135		
4	(1)(b)1.c.	1st	Trafficking in cocaine, more than
5			400 grams, less than 150
6			kilograms.
7	893.135		
8	(1)(c)1.c.	1st	Trafficking in illegal drugs,
9			more than 28 grams, less than 30
10			kilograms.
11	893.135		
12	(1)(d)1.c.	1st	Trafficking in phencyclidine,
13			more than 400 grams.
14	893.135		
15	(1)(e)1.c.	1st	Trafficking in methaqualone, more
16			than 25 kilograms.
17	893.135		
18	(1)(f)1.c.	1st	Trafficking in amphetamine, more
19			than 200 grams.
20			(j) LEVEL 10
21	782.04(2)	1st,PBL	Unlawful killing of human; act is
22			homicide, unpremeditated.
23	787.01(1)(a)3.	1st,PBL	Kidnapping; inflict bodily harm
24			upon or terrorize victim.
25	787.01(3)(a)	Life	Kidnapping; child under age 13,
26			perpetrator also commits child
27			abuse, sexual battery, lewd, or
28			lascivious act, etc.
29	<u>782.07(3)</u>	<u>1st</u>	<u>Aggravated manslaughter of a</u>
30			<u>child.</u>
31			

1 794.011(3) Life Sexual battery; victim 12 years
2 or older, offender uses or
3 threatens to use deadly weapon or
4 physical force to cause serious
5 injury.
6 876.32 1st Treason against the state.
7 Section 18. Paragraph (g) of subsection (2) of section
8 934.03, Florida Statutes, is amended to read:
9 934.03 Interception and disclosure of wire, oral, or
10 electronic communications prohibited.--
11 (2)
12 (g) It is lawful under ss. 934.03-934.09 for an
13 employee of:
14 1. An ambulance service licensed pursuant to s.
15 401.25, a fire station employing firefighters as defined by s.
16 633.30, a public utility as defined by ss. 365.01 and 366.02,
17 a law enforcement agency as defined by s. 934.02(10), or any
18 other entity with published emergency telephone numbers; ~~or~~
19 2. An agency operating an emergency telephone number
20 "911" system established pursuant to s. 365.171; or
21 3. The central abuse hotline operated pursuant to s.
22 39.201,
23
24 to intercept and record incoming wire communications; however,
25 such employee may intercept and record incoming wire
26 communications on published emergency telephone numbers only.
27 It is also lawful for such employee to intercept and record
28 outgoing wire communications to the numbers from which such
29 incoming wire communications were placed when necessary to
30 obtain information required to provide the emergency services
31 being requested.

1 Section 19. Section 39.823, Florida Statutes, 1998
2 Supplement, is amended to read:

3 39.823 Guardian advocates for drug dependent
4 newborns.--The Legislature finds that increasing numbers of
5 drug dependent children are born in this state. Because of
6 the parents' continued dependence upon drugs, the parents may
7 temporarily leave their child with a relative or other adult
8 or may have agreed to voluntary family services under s.
9 39.301(12)~~s. 39.301(8)~~. The relative or other adult may be
10 left with a child who is likely to require medical treatment
11 but for whom they are unable to obtain medical treatment. The
12 purpose of this section is to provide an expeditious method
13 for such relatives or other responsible adults to obtain a
14 court order which allows them to provide consent for medical
15 treatment and otherwise advocate for the needs of the child
16 and to provide court review of such authorization.

17 Section 20. The Department of Health, in consultation
18 with the Department of Children and Family Services and the
19 Florida Association of Counties, shall develop a plan for
20 submission to the Legislature describing the resources that
21 are necessary to provide adequate support for child protection
22 teams in each county. The plan must specify those resources
23 that should be provided by the state and those that should be
24 provided by the county. The Department of Health shall submit
25 the plan to the President of the Senate and the Speaker of the
26 House of Representatives by October 1, 1999.

27 Section 21. The Department of Children and Family
28 Services shall contract with an independent entity for the
29 purpose of evaluating the central abuse hotline within the
30 department to determine its effectiveness and efficiency in
31 performing its statutory responsibilities pursuant to chapter

1 39, Florida Statutes. This evaluation must include, but need
2 not be limited to, the criteria and the application of
3 criteria by which calls are accepted or denied. This
4 evaluation must also address the need to monitor the central
5 abuse hotline on an ongoing basis and, if recommended, must
6 propose the monitoring process.

7 Section 22. There is appropriated to the Department of
8 Children and Family Services, 8 full-time-equivalent positions
9 and \$878,031 from recurring General Revenue Funds, \$457,896
10 from nonrecurring General Revenue Funds, and \$515,825 from the
11 Federal Grants Trust Fund to implement sections 4, 21, and 23
12 of this act. There is appropriated to the Department of
13 Health, 3 full-time-equivalent positions and \$2,413,234 from
14 recurring General Revenue Funds and \$435,862 from nonrecurring
15 General Revenue Funds to implement sections 9 and 13 of this
16 act.

17 Section 23. Full-time equivalent positions of the
18 Department of Children and Family Services which are directly
19 involved in the investigation of child abuse and neglect are
20 not subject to position-lapse adjustments included in the
21 General Appropriations Act or to agency imposed position-lapse
22 adjustments included in annual agency operating budgets. It is
23 the intent of the Legislature that such positions be promptly
24 filled and delays in hiring be kept to a minimum.

25 Section 24. The Office of Program Policy Analysis and
26 Government Accountability is directed to analyze and report on
27 all cases for which an administrative review is conducted
28 under section 39.301(12)(c), Florida Statutes, and the
29 Department of Children and Family Services does not take the
30 child into custody or file a petition under chapter 39,
31 Florida Statutes. The analysis shall include, at a minimum, an

1 assessment of the characteristics of these children as
2 compared to children who are taken into custody or for whom a
3 petition is filed under section 39.301(12)(c), Florida
4 Statutes, as a result of the administrative review and an
5 assessment of each child's outcome in terms of whether any
6 reports of known or suspected abuse, neglect, or abandonment
7 are received. The analysis of this and any other data
8 identified and collected by the Office of Program Policy
9 Analysis and Government Accountability is to be compiled
10 quarterly and submitted to the President of the Senate and the
11 Speaker of the House of Representatives by January 1, 2000,
12 and January 1, 2001. The Office of Program Policy Analysis and
13 Government Accountability and the Department of Children and
14 Family Services shall work cooperatively to develop a research
15 and data-collection design necessary to implement the
16 requirements of this section.

17 Section 25. This act shall take effect July 1, 1999.

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1 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
2 COMMITTEE SUBSTITUTE FOR
3 CS/SB 0338
4 Specifies that making a child unavailable to avoid a
5 protective investigation does not constitute "harm" to a child
6 when the court determines that the parent, legal custodian, or
7 caregiver was fleeing from a situation involving domestic
8 violence.
9 Specifies that the district child protective investigator,
10 rather than the central abuse hotline staff, must immediately
11 notify the appropriate law enforcement agency in the county in
12 which the known or suspected child abuse, abandonment, or
13 neglect is believed to have occurred.
14 Allows the court to determine that other mitigating
15 circumstances exist when determining whether a person is
16 guilty of a third degree felony for failing to report child
17 abuse, abandonment, or neglect.
18 Specifies that the Department of Children and Family Services
19 will establish an internal operating procedure, rather than a
20 rule, that ensures that all required investigatory activities
21 are completed by the investigator, reviewed by the supervisor
22 in a timely manner, signed and dated.
23 Removes the provision relating to the child who is the subject
24 of an abuse report and receiving treatment in an emergency
25 room from those conditions under which the Department of
26 Children and Family Services must adopt rules for the
27 department to take the child into custody or to file a
28 petition with the court under ch. 39, F.S., for removal of the
29 child from the home.
30 Modifies the provision mandating that the department take a
31 child into custody or file a petition under ch. 39, F.S., when
 certain conditions are present by also providing for a
 departmental review and maintenance of specified
 documentation.
 Requires that the Department of Children and Family Services
 appoint a child abuse death review coordinator in each
 district and specifies their responsibilities.
 Removes the provision that required legal costs be borne by
 the Department of Children and Family Services when a
 community-based agency files a dependency petition for a child
 who is referred to them by the department or its agent.