

# SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

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

BILL: SB 122

SPONSOR: Senator Smith

SUBJECT: Public Records/Child Abuse

DATE: March 27, 2003

REVISED: \_\_\_\_\_

|    | ANALYST      | STAFF DIRECTOR | REFERENCE | ACTION                 |
|----|--------------|----------------|-----------|------------------------|
| 1. | <u>Dowds</u> | <u>Whiddon</u> | <u>CF</u> | <u>Fav/1 amendment</u> |
| 2. | <u>Rhea</u>  | <u>Wilson</u>  | <u>GO</u> | <u>Favorable</u>       |
| 3. | _____        | _____          | <u>RC</u> | _____                  |
| 4. | _____        | _____          | _____     | _____                  |
| 5. | _____        | _____          | _____     | _____                  |
| 6. | _____        | _____          | _____     | _____                  |

## I. Summary:

Records that are confidential and exempt, as opposed to records that are only exempt, may not be released to a person or entity unless they are specifically identified in statute.

Section 39.202(1), F.S., makes reports of child abuse, neglect, or abandonment held by the Department of Children and Families exempt and confidential. As a result, these records are permitted to be disclosed only to the entities specified in s. 39.202(2), F.S.

This bill expands the list of authorized exceptions to the exemption contained in s. 39.202(2), F.S., by permitting the Department of Children and Families to release exempt and confidential records to staff of a child advocacy center if that center meets statutory standards regarding their services and manner of operation and if that staff is actively providing services to the child who is the subject of those records.

This bill amends section 39.202 of the Florida Statutes.

## II. Present Situation:

The Legislature has assigned responsibility for conducting protective investigations on reports of child abuse, neglect, and abandonment in ch. 39, F.S., to the Department of Children and Families (DCF) or its agents (i.e., the sheriff's offices that have assumed this function). The full scope of investigative, assessment, and prosecution work that is required on some child abuse cases, however, involves many state and local agencies. The agencies that may be involved include law enforcement for criminal investigations into the child abuse or neglect; the state attorney for prosecution if there is evidence of criminal activity; various community service providers for mental health, domestic violence, and other services determined needed by the child and family; and the Department of Health's Child Protection Teams (CPT) for medical,

psychological, and other types of clinical assessments for certain types of abuse and neglect reports received.

### **Child Advocacy Centers**

In a number of communities across the state, child advocacy centers have been formed to support the child protective investigative process. The child advocacy centers work to coordinate the activities of the many agencies involved in the investigation to reduce the number of times a child must be interviewed and, in turn, the trauma to the child, to facilitate joint investigations, and to provide for prompt access to mental health and other appropriate services. While the services offered by child advocacy centers vary based on the funding and needs of the community, each attempts to offer some combination of the following services:

- a neutral, child-friendly setting where all the agencies can interview and examine the child;
- medical evaluations of the child;
- coordination of multi-discipline team meetings of all of the agencies involved in a case;
- on-site victim advocacy; and
- mental health services.

Currently, there are 20 child advocacy centers operating in Florida. Twelve of these centers are accredited by the National Children's Alliance as meeting the required standards and criteria for child advocacy centers. The state chapter of the National Children's Alliance is the Florida Network of Children's Advocacy Centers. The Florida Network of Children's Advocacy Centers supports the development, growth, and continuation of child advocacy centers in Florida by providing technical assistance, training, and networking.

Minimum standards for child advocacy centers in Florida were established with the passage of ch. 98-403, L.O.F., which created s. 39.3035, F.S. This section requires child advocacy centers to meet the following standards in order to be full members of the Florida Network of Children's Advocacy Centers:

- be a private, not-for-profit incorporated agency or governmental entity;
- be a CPT or have a written agreement that incorporates the participation and services of the CPT;
- have a neutral, child-focused facility;
- have staff that is supervised and approved by a local board of directors or governmental agency;
- have a multi-disciplinary case review team that minimally consists of representation from the State Attorney's office, DCF, CPT, mental health services, law enforcement, and the child advocacy center staff;
- track the cases seen through the child advocacy center with minimum requirements on the data to be collected identified;
- provide referrals for medical exams and mental health services;
- provide training in the community; and

- have interagency agreements for the multidisciplinary approach to handling child sexual abuse and serious physical child abuse.

Child advocacy centers in Florida are required to meet these standards and be full members of the Florida Network of Children's Advocacy Centers in order to be eligible to receive state funds appropriated by the Legislature.<sup>1</sup>

### **Confidentiality of Child Abuse and Neglect Records**

Records held by the Department of Children and Families concerning reports of child abuse, neglect, or abandonment are confidential and exempt from public disclosure, pursuant to s. 39.202(1), F.S. With the exception of the name of the reporter, these records are permitted to be disclosed only to the following entities identified in s. 39.202(2), F.S., within the limitations and conditions specified in statute:

- employees, authorized agents, and contract providers of DCF, the Department of Health, and county agencies responsible for child protective investigations, child protective services, Healthy Start services, or licensing of adoption homes, foster homes, and certain child care settings;
- employees or agents of the Department of Juvenile Justice responsible for Children in Need of Services/Families in Need of Services or delinquency services;
- the parent or legal custodian of the child alleged to have been abused;
- the alleged perpetrator of the abuse;
- the court;
- a grand jury;
- an official of DCF for the administration of certain related programs, administrative actions against an employee alleged to have committed abuse, or employment in the department;
- for research or audit purposes;
- the Department of Administrative Hearings;
- representatives of the Florida Advocacy Council;
- representatives of the Auditor General or Office of Program Policy Analysis and Government Accountability;
- authorized agents of an agency or another state that has comparable jurisdiction to DCF;
- the Public Employees Relation Commission as needed for appeals;
- the Department of Revenue for child support enforcement activities; and
- any person when the death of a child has been the result of abuse, neglect, or abandonment.

The Department of Children and Families is permitted to release information in the child abuse, neglect, or abandonment records to appropriate professionals when such information is needed for the diagnosis and treatment of the child or alleged perpetrator.<sup>2</sup> Similarly, the Department of

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<sup>1</sup> Section 39.03035(3), F.S.

<sup>2</sup> Section 39.202(3), F.S.

Health is permitted to release information from its Child Protection Team records, which includes DCF child abuse, neglect, and abandonment records, when necessary for additional evaluations or treatment of the children.<sup>3</sup>

The Department of Children and Families' case records provide important information to the staff of the child advocacy centers in carrying out the functions of determining the child and family's needs and referring them to the appropriate services, facilitating multi-disciplinary case staffing, and providing for a single interview of the child that meets all agencies' needs. For a number of the current child advocacy centers, the existing statutory provisions guiding the disclosure of these records include or provide limited access to the child advocacy centers. Five of the 20 child advocacy centers are also CPTs under contract with the Department of Health and are authorized for disclosure as a contract provider of the Department of Health with a responsibility for child protective investigations under s. 39.202(2)(a), F.S., but only to the extent that the work of the child advocacy center is consistent with the responsibilities of the CPT. The Department of Health also interprets s. 39.202(5), F.S., to include providing information regarding the abuse, neglect, or abandonment of the child to the child advocacy center staff at the multi-disciplinary staffings since they are performing necessary evaluations of the child. This access to information, however, does not include access to the actual records. There are groups of children not referred for CPT medical assessments who are often served by the child advocacy centers, including children who have been the victims of neglect or child-on-child abuse, for whom child advocacy centers would not have access to DCF records under current statutes. Also, it has been reported that since the language of s. 39.202, F.S., does not specifically stipulate the child advocacy centers, there can be delays in release of the information.

### **III. Effect of Proposed Changes:**

This bill expands the list of authorized exceptions to the exemption contained in s. 39.202(2), F.S., by permitting the Department of Children and Families to release exempt and confidential records to staff of a child advocacy center if that center meets statutory standards regarding their services and manner of operation and if that staff is actively providing services to the child who is the subject of those records.

This bill takes effect July 1, 2003

### **IV. Constitutional Issues:**

#### **A. Municipality/County Mandates Restrictions:**

None.

#### **B. Public Records/Open Meetings Issues:**

This bill is not creating or expanding a public records exemption but instead is further opening access to records that are currently exempt from public disclosure and

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<sup>3</sup> Section 39.202(5), F.S.

confidential by adding another entity that is permitted to receive these records. As the bill is not creating a new exemption, the constitutional requirements for creating an exemption are inapplicable.

C. Trust Funds Restrictions:

None.

**V. Economic Impact and Fiscal Note:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The Department of Children and Families reports that SB 122 will have no fiscal impact on the department, other than minimal costs associated with copying the records to be provided for the child advocacy centers.

The Department of Health reports that the bill does not impact either their department or the operation of the CPT.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Amendments:**

# 1 by Children and Families:

This amendment clarifies the services being provided by the child advocacy center in order to have access to the child abuse, neglect, and abandonment records as the services of the center.