

By the Committee on Children and Families

300-888B-03

1                                   A bill to be entitled  
2           An act relating to child protective  
3           investigations; amending s. 39.201, F.S.;  
4           clarifying persons responsible for a child's  
5           welfare; requiring personnel from the abuse  
6           hotline of the Department of Children and  
7           Family Services to determine if a report meets  
8           the criteria for child abuse, neglect, or  
9           abandonment; modifying the consideration given  
10          to specified reporters; providing that reports  
11          accepted for investigation in other states may  
12          not be accepted by the hotline; amending s.  
13          39.301, F.S.; providing for an onsite  
14          investigation process for reports meeting  
15          specified criteria; requiring approval and  
16          documentation that a report meets the criteria;  
17          requiring that certain reports are subject to  
18          an enhanced onsite child protective  
19          investigation; providing criteria; providing  
20          requirements for such investigations; requiring  
21          the department to establish the investigation  
22          process by rule; requiring the department to  
23          monitor the findings of the reports in its  
24          quality assurance program; amending s. 39.302,  
25          F.S.; revising the timeframe for responding to  
26          a report of institutional child abuse; amending  
27          s. 39.823, F.S., relating to guardian  
28          advocates; conforming a cross-reference to  
29          changes made by the act; amending s. 414.065,  
30          F.S.; eliminating the requirement for a  
31          referral for protection intervention; requiring

1 the Department of Children and Family Services  
2 to establish a Protective Investigator  
3 Retention Workgroup; specifying the issues to  
4 be examined and plans to be developed;  
5 requiring a report to the Legislature on the  
6 results of the examinations and plans  
7 developed; requiring the Department of Children  
8 and Family Services to conduct a quality  
9 assurance review of child abuse reports that  
10 are subject to an onsite child protective  
11 investigation; requiring a report to the  
12 Legislature; prohibiting the amendment of the  
13 approved operating budget to reduce protective  
14 investigative positions; providing an effective  
15 date.

16  
17 Be It Enacted by the Legislature of the State of Florida:

18  
19 Section 1. Subsection (1) and paragraphs (a) and (b)  
20 of subsection (2) of section 39.201, Florida Statutes, are  
21 amended to read:

22 39.201 Mandatory reports of child abuse, abandonment,  
23 or neglect; mandatory reports of death; central abuse  
24 hotline.--

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

26 (a) Physician, osteopathic physician, medical  
27 examiner, chiropractic physician, nurse, or hospital personnel  
28 engaged in the admission, examination, care, or treatment of  
29 persons;

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

1 (c) Practitioner who relies solely on spiritual means  
2 for healing;

3 (d) School teacher or other school official or  
4 personnel;

5 (e) Social worker, day care center worker, or other  
6 professional child care, foster care, residential, or  
7 institutional worker;

8 (f) Law enforcement officer; or

9 (g) Judge,

10  
11 who knows, or has reasonable cause to suspect, that a child is  
12 abused, abandoned, or neglected by a parent, legal custodian,  
13 caregiver, or other person responsible for the child's welfare  
14 as defined in this chapter shall report such knowledge or  
15 suspicion to the department in the manner prescribed in  
16 subsection (2).

17 (2)(a) Each report of known or suspected child abuse,  
18 abandonment, or neglect pursuant to this section, except those  
19 solely under s. 827.04(3), shall be made immediately to the  
20 department's central abuse hotline on the single statewide  
21 toll-free telephone number. Personnel at the department's  
22 central abuse hotline shall determine if the report received  
23 meets the statutory criteria for child abuse, abandonment, or  
24 neglect, and every report meeting said criteria shall be  
25 accepted for protective investigation pursuant to Part III 4f  
26 this chapter. ~~and,~~ If the report is of an instance of known  
27 or suspected child abuse by a noncaretaker, the call shall be  
28 immediately electronically transferred to the appropriate  
29 county sheriff's office by the central abuse hotline. If the  
30 report is of an instance of known or suspected child abuse  
31 involving impregnation of a child under 16 years of age by a

1 person 21 years of age or older solely under s. 827.04(3), the  
2 report shall be made immediately to the appropriate county  
3 sheriff's office or other appropriate law enforcement agency.  
4 If the report is of an instance of known or suspected child  
5 abuse solely under s. 827.04(3), the reporting provisions of  
6 this subsection do not apply to health care professionals or  
7 other persons who provide medical or counseling services to  
8 pregnant children when such reporting would interfere with the  
9 provision of medical services.

10 (b) Reports that are accepted by another state for  
11 investigation of child abuse, neglect, or abandonment may not  
12 be accepted for investigation by the central abuse hotline.  
13 For such reports, information on the report shall be  
14 transferred to the state accepting the report for  
15 investigation.~~The department must consider valid and accept~~  
16 ~~for investigation any report received by the central abuse~~  
17 ~~hotline from a judge, teacher or other professional school~~  
18 ~~official, or physician, as specified in paragraph (1)(a),~~  
19 ~~paragraph (1)(d), or paragraph (1)(g), who is acting in his or~~  
20 ~~her professional capacity, alleging harm as defined in s.~~  
21 ~~39.01.~~

22 Section 2. Subsection (9) of section 39.301, Florida  
23 Statutes, is amended, present subsections (10), (11), (12),  
24 (13), (14), (15), (16), (17), (18), and (19) are redesignated  
25 as subsections (13), (14), (15), (16), (17), (18), (19), (20),  
26 (21), and (22), respectively, and new subsections (10), (11),  
27 and (12) are added to that section to read:

28 39.301 Initiation of protective investigations.--  
29 (9)(a) For each report received that meets one or more  
30 of the following criteria it receives, the department shall  
31 perform an onsite child protective investigation:

1           1. A report for which there is obvious compelling  
2 evidence that no maltreatment occurred and there are no prior  
3 reports containing some indicators or verified findings of  
4 abuse or neglect with respect to any subject of the report or  
5 other individuals in the home. The process for an onsite child  
6 protective investigation stipulated in this subsection may not  
7 be conducted if an allegation meeting the criteria of this  
8 subparagraph involves physical abuse, sexual abuse, domestic  
9 violence, substance abuse or substance exposure, medical  
10 neglect, a child younger than 3 years of age, or a child who  
11 is disabled or lacks communication skills.

12           2. A report of abuse that occurred out of state and  
13 the child and the alleged perpetrator reside out of state, if  
14 the state in which the abuse occurred does not accept the  
15 report for investigation. If another state accepts the report  
16 meeting the criteria set forth in this subparagraph, the  
17 information received by the central abuse hotline shall be  
18 transferred pursuant to s. 39.201(2)(b).

19           3. A report concerning an incident of abuse which is  
20 alleged to have occurred 2 or more years prior to the date of  
21 the report.

22           (b) The onsite child protective investigation to be  
23 performed shall include ~~that includes~~ a face-to-face interview  
24 with the child, other siblings, and parents, and other adults  
25 ~~in the household~~ and an onsite assessment of the child's  
26 residence in order to:

27           1.(a) Determine the composition of the family or  
28 household, including the name, address, date of birth, social  
29 security number, sex, and race of each child named in the  
30 report; any siblings or other children in the same household  
31 or in the care of the same adults; the parents, legal

1 | custodians, or caregivers; and any other adults in the same  
2 | household.

3 |       2.(b) Determine whether there is indication that any  
4 | child in the family or household has been abused, abandoned,  
5 | or neglected; the nature and extent of present or prior  
6 | injuries, abuse, or neglect, and any evidence thereof; and a  
7 | determination as to the person or persons apparently  
8 | responsible for the abuse, abandonment, or neglect, including  
9 | the name, address, date of birth, social security number, sex,  
10 | and race of each such person.

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

26 |       4.(d) Determine the immediate and long-term risk to  
27 | each child through utilization of standardized risk assessment  
28 | instruments.

29 |       5.(e) Based on the information obtained from available  
30 | sources, complete the risk assessment instrument within 48  
31 |

1 hours after the initial contact and, if needed, develop a case  
2 plan.

3 6.(f) Determine the protective, treatment, and  
4 ameliorative services necessary to safeguard and ensure the  
5 child's safety and well-being and development, and cause the  
6 delivery of those services through the early intervention of  
7 the department or its agent. The training provided to staff  
8 members who conduct child protective investigations must  
9 include instruction on how and when to use the injunction  
10 process under s. 39.504 or s. 741.30 to remove a perpetrator  
11 of domestic violence from the home as an intervention to  
12 protect the child.

13 (c) The determination that a report requires an  
14 investigation as provided in this subsection and does not  
15 require an enhanced onsite child protective investigation  
16 pursuant to subsection (10) must be approved in writing by the  
17 supervisor with documentation specifying why additional  
18 investigative activities are not necessary.

19 (d) A report that meets the criteria specified in this  
20 subsection is not precluded from further investigative  
21 activities. At any time it is determined that additional  
22 investigative activities are necessary for the safety of the  
23 child, such activities shall be conducted.

24 (10)(a) For each report that meets one or more of the  
25 following criteria, the department shall perform an enhanced  
26 onsite child protective investigation:

27 1. Any allegation that involves physical abuse, sexual  
28 abuse, domestic violence, substance abuse or substance  
29 exposure, medical neglect, a child younger than 3 years of  
30 age, or a child who is disabled or lacks communication skills.

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1           2. Any report that involves an individual who has been  
2 the subject of a prior report containing some indicators or  
3 verified findings of abuse, neglect, or abandonment.

4           3. Any report that does not contain compelling  
5 evidence that the maltreatment did not occur.

6           4. Any report that does not meet the criteria for an  
7 onsite child protective investigation as set forth in  
8 subsection (9).

9           (b) The enhanced onsite child protective investigation  
10 shall include, but is not limited to, a face-to-face interview  
11 with the child, other siblings, parents, and other adults in  
12 the household; collateral contacts; contact with the reporter  
13 as required by rule; an onsite assessment of the child's  
14 residence in accordance with subsection (9)(b); and an updated  
15 assessment. Detailed documentation is required for the  
16 investigative activities.

17           (11) The department shall establish by rule the  
18 process for conducting an onsite child protective  
19 investigation which specifically does not require the  
20 additional activities required by the department and an  
21 enhanced onsite child protective investigation, including  
22 determining whether compelling evidence exists that no  
23 maltreatment occurred, conducting collateral contacts,  
24 contacting the reporter, updating the risk assessment, and  
25 providing for differential levels of documentation between an  
26 onsite and an enhanced onsite child protective investigation.

27           (12) The department shall incorporate into its quality  
28 assurance program the monitoring of the determination of  
29 reports that receive an onsite child protective investigation  
30 and those that receive an enhanced onsite child protective  
31 investigation.



1           Section 3. Subsection (1) of section 39.302, Florida  
2 Statutes, is amended to read:

3           39.302 Protective investigations of institutional  
4 child abuse, abandonment, or neglect.--

5           (1) The department shall conduct a child protective  
6 investigation of each report of institutional child abuse,  
7 abandonment, or neglect. Upon receipt of a report ~~that~~ which  
8 alleges that an employee or agent of the department, or any  
9 other entity or person covered by s. 39.01(31) or (47), acting  
10 in an official capacity, has committed an act of child abuse,  
11 abandonment, or neglect, the department shall ~~immediately~~  
12 initiate a child protective investigation within the timeframe  
13 established by the central abuse hotline pursuant to s.  
14 39.201(5)and orally notify the appropriate state attorney,  
15 law enforcement agency, and licensing agency. These agencies  
16 shall immediately conduct a joint investigation, unless  
17 independent investigations are more feasible. When conducting  
18 investigations onsite or having face-to-face interviews with  
19 the child, such investigation visits shall be unannounced  
20 unless it is determined by the department or its agent that  
21 such unannounced visits would threaten the safety of the  
22 child. When a facility is exempt from licensing, the  
23 department shall inform the owner or operator of the facility  
24 of the report. Each agency conducting a joint investigation  
25 shall be entitled to full access to the information gathered  
26 by the department in the course of the investigation. A  
27 protective investigation must include an onsite visit of the  
28 child's place of residence. In all cases, the department shall  
29 make a full written report to the state attorney within 3  
30 working days after making the oral report. A criminal  
31 investigation shall be coordinated, whenever possible, with

1 the child protective investigation of the department. Any  
2 interested person who has information regarding the offenses  
3 described in this subsection may forward a statement to the  
4 state attorney as to whether prosecution is warranted and  
5 appropriate. Within 15 days after the completion of the  
6 investigation, the state attorney shall report the findings to  
7 the department and shall include in such report a  
8 determination of whether or not prosecution is justified and  
9 appropriate in view of the circumstances of the specific case.

10 Section 4. Section 39.823, Florida Statutes, is  
11 amended to read:

12 39.823 Guardian advocates for drug dependent  
13 newborns.--The Legislature finds that increasing numbers of  
14 drug dependent children are born in this state. Because of the  
15 parents' continued dependence upon drugs, the parents may  
16 temporarily leave their child with a relative or other adult  
17 or may have agreed to voluntary family services under s.  
18 39.301(15)~~s. 39.301(12)~~. The relative or other adult may be  
19 left with a child who is likely to require medical treatment  
20 but for whom they are unable to obtain medical treatment. The  
21 purpose of this section is to provide an expeditious method  
22 for such relatives or other responsible adults to obtain a  
23 court order which allows them to provide consent for medical  
24 treatment and otherwise advocate for the needs of the child  
25 and to provide court review of such authorization.

26 Section 5. Subsection (2) of section 414.065, Florida  
27 Statutes, is amended to read:

28 414.065 Noncompliance with work requirements.--

29 (2) CONTINUATION OF TEMPORARY CASH ASSISTANCE FOR  
30 CHILDREN; PROTECTIVE PAYEES.--

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1           (a) Upon the second or third occurrence of  
2 noncompliance, temporary cash assistance and food stamps for  
3 the child or children in a family who are under age 16 may be  
4 continued. Any such payments must be made through a protective  
5 payee or, in the case of food stamps, through an authorized  
6 representative. Under no circumstances shall temporary cash  
7 assistance or food stamps be paid to an individual who has  
8 failed to comply with program requirements.

9           (b) Protective payees shall be designated by the  
10 department and may include:

11           1. A relative or other individual who is interested in  
12 or concerned with the welfare of the child or children and  
13 agrees in writing to utilize the assistance in the best  
14 interest of the child or children.

15           2. A member of the community affiliated with a  
16 religious, community, neighborhood, or charitable organization  
17 who agrees in writing to utilize the assistance in the best  
18 interest of the child or children.

19           3. A volunteer or member of an organization who agrees  
20 in writing to fulfill the role of protective payee and to  
21 utilize the assistance in the best interest of the child or  
22 children.

23           (c) The protective payee designated by the department  
24 shall be the authorized representative for purposes of  
25 receiving food stamps on behalf of a child or children under  
26 age 16. The authorized representative must agree in writing to  
27 use the food stamps in the best interest of the child or  
28 children.

29           (d) If it is in the best interest of the child or  
30 children, as determined by the department, for the staff  
31 member of a private agency, a public agency, the department,

1 or any other appropriate organization to serve as a protective  
2 payee or authorized representative, such designation may be  
3 made, except that a protective payee or authorized  
4 representative must not be any individual involved in  
5 determining eligibility for temporary cash assistance or food  
6 stamps for the family, staff handling any fiscal processes  
7 related to issuance of temporary cash assistance or food  
8 stamps, or landlords, grocers, or vendors of goods, services,  
9 or items dealing directly with the participant.

10 (e) The department may pay incidental expenses or  
11 travel expenses for costs directly related to performance of  
12 the duties of a protective payee as necessary to implement the  
13 provisions of this subsection.

14 ~~(f) If the department is unable to designate a~~  
15 ~~qualified protective payee or authorized representative, a~~  
16 ~~referral shall be made under the provisions of chapter 39 for~~  
17 ~~protective intervention.~~

18 Section 6. (1) The Department of Children and Family  
19 Services shall establish a Protective Investigator Retention  
20 Workgroup to examine the following issues and develop plans  
21 for necessary actions as set forth for each issue:

22 (a) Examine the feasibility of an alternative response  
23 system for responding to low-risk abuse and neglect reports,  
24 design and describe in detail the alternative response system  
25 that would best serve this state, and develop a plan for  
26 implementing the system;

27 (b) Examine and develop a plan for an investigative  
28 process that provides for different levels of investigative  
29 activities based on the level of severity of the abuse;

30 (c) Examine and make recommendations regarding how  
31 institutional child abuse in facilities of the Department of

1 Juvenile Justice should be handled, including the protection  
2 against abuse which should be afforded children in those  
3 facilities, the entity or entities that should be responsible  
4 for conducting the investigations, the penalties or sanctions  
5 that should be imposed, a means of providing for the  
6 independence of investigations, and how the recommendations  
7 will ensure the protection of children;

8 (d) Examine the results of the Florida State  
9 University protective investigators' task analysis study to  
10 determine how to make the child protective investigation  
11 process more efficient, including, but not limited to,  
12 identifying the tasks that are necessary for an effective  
13 protective investigation process, streamlining of forms, and  
14 identifying the tasks that should be performed by other  
15 positions;

16 (e) Examine and develop a plan for building  
17 communication and involvement in decisionmaking with front  
18 line staff and for promoting nonmonetary recognition;

19 (f) Examine and make recommendations regarding the  
20 minimum appropriate education and work experience desirable  
21 for protective investigators and protective investigator  
22 supervisors; and

23 (g) Examine and develop a plan for the training needed  
24 to adequately prepare protective investigators for the job,  
25 including, but not limited to, identifying the training that  
26 is applicable statewide and that is specific to each district,  
27 identifying instruction that is appropriate for classroom  
28 training and that would be more effective through some form of  
29 structured field or on-the-job training, strengthening the  
30 structured field or on-the-job training, estimating the cost  
31 of strengthening the structured field or on-the-job training,

1 and setting forth a 3-year implementation plan for phasing in  
2 any identified expansion to the training program.

3 (2) The department shall include as members of the  
4 workgroup protective investigators, protective investigative  
5 supervisors, representatives from at least two of the  
6 sheriffs' offices conducting this function on the effective  
7 date of this act, and at least one individual outside the  
8 department who has expertise in other states' child protection  
9 systems.

10 (3) Advisory groups may be used to conduct the  
11 examinations and develop the specified plans. The department  
12 is encouraged to use individuals and entities having knowledge  
13 and experience in the issues from outside the department on  
14 these advisory groups such as representatives having  
15 experience in domestic violence programs and services. The  
16 following representation shall be included on either the  
17 advisory group or workgroup examining the issue:

18 (a) Representatives from the Department of Juvenile  
19 Justice and the Statewide Advocacy Council for the examination  
20 of institutional child abuse in Department of Juvenile Justice  
21 facilities;

22 (b) Representatives from the Professional Development  
23 Center for examination of the training needed to adequately  
24 prepare protective investigators;

25 (c) Representatives having experience from Florida's  
26 Family Services Response System and from the Neighborhood  
27 Partnerships for the Protection of Children for the  
28 examination of the feasibility of an alternative response  
29 system; and

30 (d) Representatives from the Behavior Analysis  
31 Services Program for examination of factors relating to the

1 level of severity and probability of continued or increased  
2 abuse and corresponding levels of investigative activities.

3 (4) The Protective Investigators' Retention Workgroup  
4 shall ensure that each of the examinations is conducted with  
5 the necessary sharing of information and results to prevent  
6 the development of plans that are incompatible with each  
7 other. Instead, each of the plans should support and build  
8 upon the other.

9 (5) A report of the results of each of the  
10 examinations and plans developed shall be submitted to the  
11 President of the Senate, the Speaker of the House of  
12 Representatives, and the Governor by December 31, 2003.

13 Section 7. The Legislature finds that there is  
14 evidence suggesting a link between the availability of certain  
15 services to families in the child protective system and the  
16 workload and turnover of protective investigators. Families  
17 being investigated for child abuse may be remaining in the  
18 investigation process longer or returning through the child  
19 protective system due to certain services not being available  
20 for the families, increasing the number of families requiring  
21 subsequent investigations. Therefore, the Office of Program  
22 Policy Analysis and Government Accountability is directed to  
23 conduct a study of the impact that the availability of  
24 services to families has on the protective investigators'  
25 workload and turnover and on the subsequent reports of abuse  
26 in the families and to identify those specific services that  
27 would address the immediate needs of families involved in a  
28 child protective investigation process and those services that  
29 would be most likely to prevent the families' return into the  
30 child protection system. A report of the results of the study  
31 shall be submitted to the President of the Senate, the Speaker

1 of the House of Representatives, and the Governor by December  
2 31, 2003.

3       Section 8. The Department of Children and Family  
4 Services shall conduct a quality assurance review of the  
5 reports receiving an onsite child protective investigation  
6 process pursuant to section 39.301(9), Florida Statutes, to  
7 examine the accuracy of the determinations not to use the  
8 enhanced process and whether there is an unacceptable risk to  
9 the families in not using the enhanced process. A preliminary  
10 report shall be submitted to the Senate Committee on Children  
11 and Families and the House Committee on the Future of  
12 Florida's Families with recommendations for modifications, if  
13 determined necessary, by December 31, 2003, and a final report  
14 shall be submitted to the President of the Senate, the Speaker  
15 of the House of Representatives, and the Governor by December  
16 31, 2004.

17       Section 9. Notwithstanding any other provision of law  
18 to the contrary and for the 2003-2004 fiscal year only, the  
19 Department of Children and Family Services may not amend the  
20 approved operating budget in a manner that decreases the  
21 funding and positions appropriated for additional protective  
22 investigator positions and the costs related to those  
23 positions.

24       Section 10. This act shall take effect upon becoming a  
25 law.

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SENATE SUMMARY

Revises various provisions concerning child protective services. Revises requirements for determining if a report meets the criteria for child abuse, neglect, or abandonment. Provides for an abbreviated investigation process for reports that meet specified criteria. Requires the Department of Children and Family Services to establish a Protective Investigator Retention Workgroup. Provides issues to be examined and plans to be developed. Requires the department to conduct a quality assurance review of child abuse reports receiving an abbreviated investigation. Requires reports to the Legislature. (See bill for details.)