

By the Committee on Criminal Justice; and Senator Fasano

307-2188-03

1                                   A bill to be entitled  
2           An act relating to aggravated child abuse;  
3           amending s. 827.03, F.S.; defining the term  
4           "maliciously" for purposes of the offense of  
5           aggravated child abuse; providing an effective  
6           date.

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

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10           Section 1. Section 827.03, Florida Statutes, is  
11 amended to read:

12           827.03 Abuse, aggravated abuse, and neglect of a  
13 child; penalties.--

14           (1) "Child abuse" means:

15           (a) Intentional infliction of physical or mental  
16 injury upon a child;

17           (b) An intentional act that could reasonably be  
18 expected to result in physical or mental injury to a child; or

19           (c) Active encouragement of any person to commit an  
20 act that results or could reasonably be expected to result in  
21 physical or mental injury to a child.

22  
23 A person who knowingly or willfully abuses a child without  
24 causing great bodily harm, permanent disability, or permanent  
25 disfigurement to the child commits a felony of the third  
26 degree, punishable as provided in s. 775.082, s. 775.083, or  
27 s. 775.084.

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

29           (a) Commits aggravated battery on a child;

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

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.

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

8           (3)(a) "Neglect of a child" means:

9           1. A caregiver's failure or omission to provide a  
10 child with the care, supervision, and services necessary to  
11 maintain the child's physical and mental health, including,  
12 but not limited to, food, nutrition, clothing, shelter,  
13 supervision, medicine, and medical services that a prudent  
14 person would consider essential for the well-being of the  
15 child; or

16           2. A caregiver's failure to make a reasonable effort  
17 to protect a child from abuse, neglect, or exploitation by  
18 another person.

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20 Neglect of a child may be based on repeated conduct or on a  
21 single incident or omission that results in, or could  
22 reasonably be expected to result in, serious physical or  
23 mental injury, or a substantial risk of death, to a child.

24           (b) A person who willfully or by culpable negligence  
25 neglects a child and in so doing causes great bodily harm,  
26 permanent disability, or permanent disfigurement to the child  
27 commits a felony of the second degree, punishable as provided  
28 in s. 775.082, s. 775.083, or s. 775.084.

29           (c) A person who willfully or by culpable negligence  
30 neglects a child without causing great bodily harm, permanent  
31 disability, or permanent disfigurement to the child commits a

1 felony of the third degree, punishable as provided in s.  
2 775.082, s. 775.083, or s. 775.084.

3 (4) For purposes of this section, "maliciously" means  
4 wrongfully, intentionally, without legal justification or  
5 excuse. Maliciousness may be established by circumstances from  
6 which one could reasonably believe that the punishment was  
7 inflicted with a desire to cause the victim to suffer  
8 unjustifiable pain.

9 Section 2. This act shall take effect upon becoming a  
10 law.

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12 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN  
13 COMMITTEE SUBSTITUTE FOR  
14 Senate Bill 2366

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16 Specifies that maliciousness may be established by  
17 circumstances from which there was a reasonable belief that  
18 the punishment was inflicted with a desire to cause the victim  
19 to suffer unjustifiable pain.

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