

By Senator Lynn

7-1325A-03

1 A bill to be entitled
2 An act relating to the Department of Children
3 and Family Services; amending s. 39.001, F.S.;
4 providing for the provision or purchasing of
5 child welfare legal services by the department,
6 community-based lead agencies, and sheriffs;
7 providing a definition of the term "child
8 welfare legal services"; amending s. 39.3065,
9 F.S.; permitting funds to be made available to
10 the sheriff for the provision of child welfare
11 legal services; amending s. 415.102, F.S.;
12 redefining the terms "abuse," "exploitation,"
13 and "neglect"; creating s. 415.1046, F.S.;
14 providing the Department of Children and Family
15 Services with the authority to contract for
16 provision of adult protective investigative
17 services; stipulating the requirements for
18 sheriffs' offices to be eligible to contract
19 for provision of adult protective investigative
20 services; providing for the contracting and
21 funding for adult protective investigative
22 services; requiring sheriffs' employees to
23 complete certain training; stipulating minimum
24 requirements for the sheriffs' offices'
25 operation of adult protective investigations;
26 requiring a program performance evaluation;
27 providing an effective date.

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29 Be It Enacted by the Legislature of the State of Florida:
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1 Section 1. Paragraph (f) is added to subsection (2) of
2 section 39.001, Florida Statutes, to read:

3 39.001 Purposes and intent; personnel standards and
4 screening.--

5 (2) DEPARTMENT CONTRACTS.--The department may contract
6 with the Federal Government, other state departments and
7 agencies, county and municipal governments and agencies,
8 public and private agencies, and private individuals and
9 corporations in carrying out the purposes of, and the
10 responsibilities established in, this chapter.

11 (f) Child welfare legal services may be provided by
12 the department or purchased by the department from public or
13 private nonprofit legal services entities. As used in this
14 chapter, the term "child welfare legal services" means the
15 legal services and representation of the state for legal
16 actions required to be performed pursuant to this chapter. The
17 department may make funds available to community-based lead
18 agencies for child welfare legal services relative to the
19 contracted foster care and related services pursuant to s.
20 409.1671, and to sheriffs for child welfare legal services
21 related to child protective investigations pursuant to s.
22 39.3065, in which case such legal services may be provided by
23 the community-based lead agencies or sheriff, respectively, or
24 purchased from a public or private nonprofit legal services
25 entity.

26 Section 2. Paragraph (c) of subsection (3) of section
27 39.3065, Florida Statutes, is amended to read:

28 39.3065 Sheriffs of certain counties to provide child
29 protective investigative services; procedures; funding.--

30 (3)

1 (c) Funds for providing child protective
2 investigations must be identified in the annual appropriation
3 made to the Department of Children and Family Services, which
4 shall award grants for the full amount identified to the
5 respective sheriffs' offices. Notwithstanding the provisions
6 of ss. 216.181(16)(b) and 216.351, the Department of Children
7 and Family Services may advance payments to the sheriffs for
8 child protective investigations. Funds for the child
9 protective investigations may not be integrated into the
10 sheriffs' regular budgets. Funds for child protective
11 investigations may include available funds to provide child
12 welfare legal services pursuant to this chapter, in which case
13 such legal services may be provided by the sheriff or
14 purchased from a public or a private nonprofit legal services
15 entity. Budgetary data and other data relating to the
16 performance of child protective investigations must be
17 maintained separately from all other records of the sheriffs'
18 offices and reported to the Department of Children and Family
19 Services as specified in the grant agreement.

20 Section 3. Subsections (1), (7), and (15), of section
21 415.102, Florida Statutes, are amended to read:

22 415.102 Definitions of terms used in ss.
23 415.101-415.113.--As used in ss. 415.101-415.113, the term:

24 (1) "Abuse" means any willful act or threatened act by
25 a caregiver that causes or is likely to cause significant
26 impairment to a vulnerable adult's physical, mental, or
27 emotional health. Abuse includes acts and omissions.

28 (7)(a) "Exploitation" means a caregiver ~~person~~ who:

29 1. Stands in a position of trust and confidence with a
30 vulnerable adult and knowingly, by deception or intimidation,
31 obtains or uses, or endeavors to obtain or use, a vulnerable

1 adult's funds, assets, or property with the intent to
2 temporarily or permanently deprive a vulnerable adult of the
3 use, benefit, or possession of the funds, assets, or property
4 for the benefit of someone other than the vulnerable adult; or

5 2. Knows or should know that the vulnerable adult
6 lacks the capacity to consent, and obtains or uses, or
7 endeavors to obtain or use, the vulnerable adult's funds,
8 assets, or property with the intent to temporarily or
9 permanently deprive the vulnerable adult of the use, benefit,
10 or possession of the funds, assets, or property for the
11 benefit of someone other than the vulnerable adult.

12 (b) "Exploitation" may include, but is not limited to:

13 1. Breaches of fiduciary relationships, such as the
14 misuse of a power of attorney or the abuse of guardianship
15 duties, resulting in the unauthorized appropriation, sale, or
16 transfer of property;

17 2. Unauthorized taking of personal assets;

18 3. Misappropriation, misuse, or transfer of moneys
19 belonging to a vulnerable adult from a personal or joint
20 account; or

21 4. Intentional or negligent failure to effectively use
22 a vulnerable adult's income and assets for the necessities
23 required for that person's support and maintenance.

24 (15) "Neglect" means the failure or omission on the
25 part of the caregiver or vulnerable adult to provide the care,
26 supervision, and services necessary to maintain the physical
27 and mental health of the vulnerable adult, including, but not
28 limited to, food, clothing, medicine, shelter, supervision,
29 and medical services, that a prudent person would consider
30 essential for the well-being of a vulnerable adult. The term
31 "neglect" also means the failure of a caregiver or vulnerable

1 adult to make a reasonable effort to protect a vulnerable
2 adult from abuse, neglect, or exploitation by others.
3 "Neglect" is repeated conduct or a single incident of
4 carelessness which produces or could reasonably be expected to
5 result in serious physical or psychological injury or a
6 substantial risk of death.

7 Section 4. Section 415.1046, Florida Statutes, is
8 created to read:

9 415.1046 Department authorization to contract for the
10 provision of adult protective investigative services;
11 procedures; funding.--

12 (1) As described in this section, the department may
13 contract for the performance of adult protective
14 investigations of alleged acts of exploitation with a
15 sheriff's office that is deemed eligible as stipulated in
16 subsection (2). The department and eligible sheriffs' offices
17 may enter into a contract for the provision of adult
18 protective investigation services of adult exploitation that
19 is alleged to have occurred in the county of the respective
20 sheriff. Such contracts may not include adult abuse and
21 neglect cases.

22 (2) A sheriff's office is eligible to contract with
23 the department for the provision of adult protective
24 investigation services if:

25 (a) The sheriff's office has been responsible for the
26 provision of child protective investigation services, pursuant
27 to s. 39.3065, for a minimum of 2 years; and

28 (b) The annual program performance evaluation
29 conducted pursuant to s. 39.3065(3)(d), has determined that
30 the sheriff's office is satisfactorily performing child
31 protective investigations.

1 (3) During the first year in which a sheriff's office
2 contracts with the department for provision of adult
3 protective investigation services, the funding associated with
4 the provision of the services to be furnished, including, but
5 not limited to, funding for appropriate investigative,
6 supervisory, and clerical positions; training; associated
7 equipment; furnishings; and other fixed capital items, must be
8 transferred from the department's budget to the sheriff's
9 office. In subsequent years, funding for providing the adult
10 protective investigative services must be identified for each
11 sheriff's office entering into a contract in the annual
12 appropriation made to the department, and the department shall
13 contract with each respective sheriff's office for the full
14 amount identified. Notwithstanding ss. 216.181(16)(b) and
15 216.351, the department may advance payments to the sheriffs'
16 offices for adult protective investigation services. Funds
17 for the adult protective investigations may not be integrated
18 into the sheriffs' regular budgets. Budgetary data and other
19 data relating to the performance of adult protective
20 investigations must be maintained separately from all other
21 records of the sheriffs' offices and reported to the
22 department as specified in the contract.

23 (4) Each employee of the sheriffs' offices who
24 provides these services must complete the training provided to
25 and required of the adult protective investigators employed by
26 the department.

27 (5) The sheriffs' offices under contract with the
28 department shall operate, at a minimum, in accordance with the
29 performance standards and outcome measures established by the
30 Legislature for adult protective investigations conducted by
31 the department.

1 (6) A program performance evaluation shall be
2 conducted of the adult protective investigations performed by
3 each of the sheriffs' offices entering into contract with the
4 department. This program performance evaluation shall be
5 conducted in the same manner as the program performance
6 evaluation for child protective investigations stipulated in
7 s. 39.3065(3)(d), and shall be incorporated into the annual
8 report required pursuant to s. 39.3065(3)(d).

9 Section 5. This act shall take effect July 1, 2003.

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12 SENATE SUMMARY

13 Provides for the provision or purchasing of child welfare
14 legal services by the department, community-based lead
15 agencies and sheriffs. Requires a program performance
16 evaluation. (See bill for details.)
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