

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: CS/SB 606
SPONSOR: Children and Families Committee and Senator Miller
SUBJECT: Child Abuse/Religious Institutions
DATE: March 11, 2003 REVISED: _____

| | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|----|-----------------------------|-----------------------------|-----------------------------|-----------------------------|
| 1. | <u>Dowds</u> | <u>Whiddon</u> | <u>CF</u> | <u>Favorable/CS</u> |
| 2. | <u> </u> | <u> </u> | <u>ED</u> | <u> </u> |
| 3. | <u> </u> | <u> </u> | <u>CJ</u> | <u> </u> |
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I. Summary:

Committee Substitute for SB 606 amends s. 39.201, F.S., to add individuals employed or supervised by religious institutions, including their affiliated organizations, to the list of specified persons who are mandated to report child abuse. Specifically excluded from the persons who are identified mandated reporters are members of the clergy who are currently granted privileged communication when that communication meets the requirements of s. 90.505, F.S. The inclusion of employees of religious organizations to the list of specified professions required to report does not alter the current responsibility of these individuals to report child abuse. However, these employees of religious organizations would now be required to provide their names when making a report.

This bill substantially amends section 39.201 of the Florida Statutes.

II. Present Situation:

Section 39.201(1), F.S., requires *any* person who knows or has reasonable cause to suspect that child abuse, neglect, or abandonment has occurred by the parent or other person responsible for the child to report such suspicion or knowledge to the department's central abuse hotline. Several professions are specifically identified as being persons required to report child abuse but with clarification that persons required to report are not limited to these professions [s. 39.201(1), F.S.]. These professions include physicians, nurses, and other health and mental health professionals; practitioners who use spiritual means for healing; school officials; social workers, child care workers, and other social service personnel; law enforcement officers; and judges. Individuals identified in the list of professions required to report are required to provide their names [s. 39.201(2)(c), F.S.] and are entitled to request a written summary of the outcome of the investigation [s. 39.201(4), F.S.]. The names of the reporters are not to be released to any

person other than the department employees either responsible for child protective services or with the abuse hotline, law enforcement, the child protection team, or the appropriate state attorney without the reporter's written consent [s. 39.202(4), F.S.].

“Abuse” is defined in s. 39.01, F.S., as any willful act or threatened act that results in any physical, mental, or sexual injury or harm that causes or is likely to cause the child's physical, mental, or emotional health to be significantly impaired. It also includes omissions on the part of the caregiver. Under s. 39.205(1), F.S., a person who knowingly or willfully fails to report known or suspected child abuse, abandonment, or neglect or prevents another person from doing so is guilty of a first degree misdemeanor. A first degree misdemeanor is punishable by up to 1 year in jail or a \$1,000 in fines (ss. 775.082 and 775.083, F.S.).

Currently, while members of religious institutions are required to report as “any person” who knows or suspects abuse of a child, these individuals are not included in the list of professions specifically identified in s. 39.201(1), F.S. However, members of religious institutions who are priests, rabbis, practitioners of Christian Science, or ministers of a religious organization or denomination usually referred to as a church are afforded privileged communication pursuant to s. 90.505, F.S. Specifically, this privileged communication provides that communication between the identified member of the clergy and a person who is seeking spiritual counsel or advice is confidential if such communication is made during the regular course of the clergy member's practice and is not intended for further disclosure.

Chapter 39, F.S., specifically recognizes this privileged communication as it pertains to child abuse. Section 39.204, F.S., provides that privileged communication, relative to the competency of a witness and the confidentiality of the communication whether between husband and wife, professionals and their clients, or others with privileged communications, does not apply when it pertains to information involving an alleged perpetrator when child abuse, neglect, or abandonment is known or suspected. Privileged communication normally afforded these parties is not grounds for failing to report the known or suspected abuse, failing to cooperate with law enforcement or the department, or failing to provide evidence in a judicial proceeding. However, the privileged communication between attorneys and their clients, as well as members of the clergy and persons seeking their counsel pursuant to s. 90.505, F.S., are exempt from the penalties for not reporting information pertaining to child abuse, as well as from cooperating with law enforcement and the department and from providing evidence in a judicial proceeding.

III. Effect of Proposed Changes:

CS/SB 606 amends s. 39.201, F.S., to add individuals employed or supervised by religious institutions, including their affiliated organizations, to the list of specified persons who are mandated to report child abuse. Specifically excluded from the persons who are identified mandated reporters are members of the clergy who are currently granted privileged communication when that communication meets the requirements of s. 90.505, F.S. The inclusion of employees of religious organizations to the list of specified professions required to report does not alter the current responsibility of these individuals to report child abuse. However, these employees of religious organizations would now be required to provide their names when making a report.

Specifically, the bill adds to the list of professions identified as mandated reporters individuals who are employed or supervised by a religious institution. These religious institutions include mosques, churches and synagogues. Also included are persons who are employed or supervised by schools or other auxiliary organizations which are affiliated with a religious institution. However, priests, rabbis, practitioners of Christian Science, or ministers of a religious organization or denomination usually referred to as a church who are afforded privileged communication pursuant to s. 90.505, F.S., are specifically excluded when the information that is required to be reported is learned in their private communications with individuals seeking spiritual counsel pursuant to s. 90.505, F.S. Information learned outside of the specific communication afforded confidentiality pursuant to s. 90.505, F.S., by members of clergy would be required to be reported.

The bill provides an effective date of July 1, 2003.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

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 anticipates that adding individuals employed and supervised by religious institutions to the list of identified professions required to report child abuse will increase the number of abuse reports. The department estimates that the reports from this group could potentially increase to equal the 10 percent of the reports currently received from another profession required to report, i.e., the school

employees. If such an increase occurred, there would be an additional 19,858 reports of abuse that would require investigation at a conservative cost of \$515 per investigation, totaling \$10,227,870.

However, it should be noted that for FY 2000-2001, 171 reports were received from clergy. While an increase in the number of reports from individuals in religious institutions is anticipated as a result of becoming an identified reporter, the level of the increase is difficult to predict. As an example, for FY 2000-2001, the percentage of reports from mandated reporters ranged 1.57 percent from judges, 7.14 percent from medical professionals, 16.5 percent from social service workers, to 15 percent from law enforcement officers.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Amendments:

None.

This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.
