

By Senator Wise

5-1085-04

1 A bill to be entitled
2 An act relating to administrative hearings;
3 amending ss. 39.301 and 39.302, F.S., relating
4 to the initiation of a protective investigation
5 following a report to the Department of
6 Children and Family Services of known or
7 suspected child abuse, abandonment, or neglect;
8 authorizing the subject of a report by the
9 department making a determination of indicated
10 abuse or verified abuse to request an
11 administrative hearing under certain
12 circumstances; providing for notice of the
13 right to an administrative hearing; requiring
14 the subject of the report to request a hearing
15 in writing within a specified period; providing
16 certain restrictions on entering the name of
17 the subject of the report into the department's
18 statewide database or central abuse registry;
19 providing an effective date.

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

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23 Section 1. Subsection (22) is added to section 39.301,
24 Florida Statutes, to read:

25 39.301 Initiation of protective investigations.--
26 (22) If the state attorney finds that prosecution of
27 the case is not justified and the department makes a
28 determination of indicated abuse or verified abuse by a
29 subject of the report, the finding constitutes a substantial
30 interest of the subject of the report and he or she may

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1 request an administrative hearing to contest the determination
2 under ss. 120.569 and 120.57.

3 (a) The subject of the report, or his or her
4 authorized representative, must be notified of the right to an
5 administrative hearing at the same time that the department
6 notifies the subject, or his or her authorized representative,
7 of the determination of indicated abuse or verified abuse. The
8 notice must be given verbally and in writing in the language
9 of the subject and in English.

10 (b) A request for a hearing under this subsection must
11 be made to the department in writing within 30 days after
12 receipt of the notice from the department of a determination
13 of indicated abuse or verified abuse.

14 (c) The name of the subject of the report may not be
15 entered into the department's statewide database or central
16 abuse registry until the subject has failed to request a
17 hearing within the 30-day period or has unsuccessfully
18 exhausted all appeals, whichever occurs later.

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

21 39.302 Protective investigations of institutional
22 child abuse, abandonment, or neglect.--

23 (1)(a) The department shall conduct a child protective
24 investigation of each report of institutional child abuse,
25 abandonment, or neglect. Upon receipt of a report that
26 alleges that an employee or agent of the department, or any
27 other entity or person covered by s. 39.01(31) or (47), acting
28 in an official capacity, has committed an act of child abuse,
29 abandonment, or neglect, the department shall initiate a child
30 protective investigation within the timeframe established by
31 the central abuse hotline under ~~pursuant to~~ s. 39.201(5) and

1 orally notify the appropriate state attorney, law enforcement
2 agency, and licensing agency. These agencies shall
3 immediately conduct a joint investigation, unless independent
4 investigations are more feasible. When conducting
5 investigations onsite or having face-to-face interviews with
6 the child, the ~~such~~ investigation visits shall be unannounced
7 unless it is determined by the department or its agent that
8 the ~~such~~ unannounced visits would threaten the safety of the
9 child. When a facility is exempt from licensing, the
10 department shall inform the owner or operator of the facility
11 of the report. Each agency conducting a joint investigation
12 shall be entitled to full access to the information gathered
13 by the department in the course of the investigation. A
14 protective investigation must include an onsite visit of the
15 child's place of residence. In all cases, the department shall
16 make a full written report to the state attorney within 3
17 working days after making the oral report. A criminal
18 investigation shall be coordinated, whenever possible, with
19 the child protective investigation of the department. Any
20 interested person who has information regarding the offenses
21 described in this subsection may forward a statement to the
22 state attorney as to whether prosecution is warranted and
23 appropriate. Within 15 days after the completion of the
24 investigation, the state attorney shall report the findings to
25 the department and shall include in the ~~such~~ report a
26 determination of whether or not prosecution is justified and
27 appropriate in view of the circumstances of the specific case.

28 (b) If the state attorney finds that prosecution of
29 the case is not justified and the department makes a
30 determination of indicated abuse or verified abuse by a
31 subject of the report, the finding constitutes a substantial

1 interest of the subject of the report and he or she may
2 request an administrative hearing to contest the determination
3 under ss. 120.569 and 120.57.

4 1. The subject of the report, or his or her authorized
5 representative, must be notified of the right to an
6 administrative hearing at the same time that the department
7 notifies the subject, or his or her authorized representative,
8 of the determination of indicated abuse or verified abuse. The
9 notice must be given verbally and in writing in the language
10 of the subject and in English.

11 2. A request for a hearing under this subsection must
12 be made to the department in writing within 30 days after
13 receipt of the notice from the department of a determination
14 of indicated abuse or verified abuse.

15 3. The name of the subject of the report may not be
16 entered into the department's statewide database or central
17 abuse registry until the subject has failed to request a
18 hearing within the 30-day period or has unsuccessfully
19 exhausted all appeals, whichever occurs later.

20 Section 3. This act shall take effect July 1, 2004.

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23 SENATE SUMMARY

24 Authorizes the subject of a report of child abuse,
25 abandonment, or neglect to request an administrative
26 hearing in certain cases in which the Department of
27 Children and Family Services makes a determination of
28 indicated abuse or verified abuse. Requires notice to the
29 subject of the report. Requires that a request for an
30 administrative hearing be made within 30 days after
31 notice. Prohibits the department from entering the name
of the subject of the report into the department's
statewide database or central abuse registry until after
the time for requesting a hearing or until after all
appeals are exhausted.