

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: SB 1672

SPONSOR: Senate Committee on Children and Families

SUBJECT: Child Protection Investigations

DATE: February 18, 2004 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Dowds	Whiddon	CF	Favorable
2.	_____	_____	CJ	_____
3.	_____	_____	JU	_____
4.	_____	_____	AHS	_____
5.	_____	_____	AP	_____
6.	_____	_____	_____	_____

I. Summary:

Senate Bill 1672 is the by-product of a Senate committee interim project focusing on the retention of protective investigators. It modifies the process for conducting institutional child abuse investigations, particularly in Department of Juvenile Justice facilities, by removing outdated provisions, shifting the responsibility to address certain allegations from the Department of Children and Families to the Department of Juvenile Justice, removing unnecessary investigative activities, and strengthening the actions available to the Department of Children and Families when safety is a concern. Both the Department of Children and Families and the Department of Juvenile Justice are required to develop policies and procedures to guide conducting and responding to institutional child abuse investigations. An interagency agreement between these two departments is required to further develop the necessary collaborations. The Department of Children and Families is to adopt rules for the hiring and training of child protective staff, develop a program design to pilot an alternative response system, and work with the courts to examine the information needed by the courts for a dependency case. A report on the implementation of all of the recommendations of the Protective Investigator Retention Workgroup is to be submitted to the Legislature by December 31, 2004.

This bill substantially amends section 39.302 of the Florida Statutes.

II. Present Situation:

While Florida's turnover for child protection investigators appears to be declining, the current projected rate of 28.5 percent is still much higher than the national average of 15 to 20 percent. Ameliorating this problem will require multiple strategies that address the full range of factors that influence the decision of child protective investigators to leave. The 2003 interim project, *Retention of Protective Investigators and Protective Investigative Supervisors*, examined the problem of turnover and how to improve retention. The 2003 Legislature authorized a number of

initiatives that were directed at addressing the issues of the child protective investigator turnover. The Department of Children and Families (DCF) was also directed to establish a Protective Investigator Retention Workgroup (Retention Workgroup) to examine and develop recommendations regarding certain aspects of not only the work of the protective investigator but the organizational structure and administrative support that were found to be factors in the protective investigators leaving. A 2004 Senate interim project continued the effort to address the issues contributing to protective investigator turnover by focusing on the specific issues identified for the Retention Workgroup. For details on both the findings of the interim project and the recommendations of the Retention Workgroup, please refer to Interim Project Report 2004-113, *Retention of Protective Investigators Phase II* and the *Protective Investigator Retention Workgroup Report to the Legislature* dated December 31, 2003.

Institutional Child Abuse in Department of Juvenile Justice Facilities

Chapter 39, F.S., provides the statutory framework for protecting children from abuse and neglect by their caregivers. While these child protection laws are most closely associated with child abuse by parents or other adults in the children's homes, the chapter also applies to abuse of children perpetrated by other types of caregivers including adults responsible for the children's care in foster homes, private schools, child care centers, mental health and developmental disabilities institutions and facilities, residential settings, and Department of Juvenile Justice (DJJ) facilities. Excluded are public school employees and law enforcement officers or employees of detention facilities operated by counties, municipalities, or the Department of Corrections.

Child protective investigations of institutional child abuse are conducted using the same laws and investigative requirements as for familial child abuse and neglect allegations with the exception or addition of the provisions set forth in s. 39.302, F.S. This section, however, only addresses a very narrow scope of the institutional investigative process including unannounced investigations, notification of facility owner or operator if the facility is not licensed, access to information when agencies are conducting joint investigations, a visit to the child's place of residence, communication with the state attorney and law enforcement, the department's authority to restrict access to children when there is evidence of abuse or neglect, the department's responsibility to assist a facility to maintain operation under certain circumstances, notification of the Florida local advocacy council, notification of the state attorney and law enforcement if a criminal investigation is warranted, and the conducting of a specialized investigation under certain circumstances.

For juvenile justice facilities, the Department of Juvenile Justice's Inspector General tracks many of the more serious child abuse allegations reported and investigates allegations of non-compliance with DJJ policies and procedures, including inappropriate or excessive use of force incidents that often result in reports of abuse.

Issues were raised from the field in the 2003 interim project regarding the protective investigators' lack of authority to take action to protect children because the recourse available is limited to actions designed to be applied to parents or other familial caregivers. Further, protective investigators (PIs) have identified as a workload issue the high level of abuse reports

from DJJ facilities that have no indicators and allegations which are less true abuse reports than they are complaints from disgruntled youth. The data supports the PIs' perspective that a large proportion of the allegations are found not to be abuse or neglect. For fiscal year 2002-2003, 83.3 percent of the abuse and neglect allegations from DJJ facilities were found to have no indicators. However, the data shows that 74 percent of the allegations were for physical injury or sexual abuse-related allegations indicating that most of the reports from the youth were for more serious types of allegations. Environmental neglect-related allegations represented only 4.5 percent of the maltreatment allegations reported, none of which had verified findings of neglect.¹ Given that these children are in a facility setting, these type of allegations are reported to be issues that are more facility maintenance or operation related.

During the 2004 interim project, the Retention Workgroup found unnecessary requirements, a lack of consistent communication between DCF and DJJ regarding the investigations and findings, and a need for more guidance relative to investigating all institutional child abuse reports. The Retention Workgroup developed a series of recommendations to reduce unnecessary investigative activities, improve information sharing and collaboration between DCF and DJJ, and to stipulate expectations for each agency's actions and response.

Alternative Response System and Different Levels of Investigative Activities

An alternative response system recognizes the differences in the reports of abuse or neglect and allows for different responses to meet the particular needs of the case. Unlike Florida, several states have implemented alternative response systems utilizing a variety of approaches. Usually there are at least two distinct tracks for responding to child abuse reports. One track continues with the traditional investigative procedures because there are serious safety issues or the possibility of criminal charges. The second track focuses on stabilizing the family to prevent the further escalation of abusive acts by assessing the needs of the families and providing or linking them to appropriate services.²

A national study of child protection systems found alternative response approaches in 20 states, 11 of which had implemented this approach on a statewide basis.³ The five year evaluation of the Missouri Family Assessment Response System found that while the positive effects of the demonstration were modest and the assessment response approach was not appropriate for all cases, there were clearly benefits to both the families and the system including fewer subsequent hotline reports for the demonstration families and fewer new incidents of less severe physical abuse, lack of supervision, proper parenting, and educational neglect.⁴

¹ The only maltreatment allegations considered in this data are those with recorded findings.

² Schene, Patricia, *Using Differential Response in Reports of Child Abuse and Neglect, Best Practices Next Practice*, Spring 2001, pp. 2 & 3.

³ *National Study of Child Protective Services Systems and Reform Efforts: Review of State CPS Policy*, U.S. Department of Health and Human Services, April 2003, pp. 5-1 & 5-3.

⁴ Institute of Applied Research, *A Study of the Missouri Family Assessment and Response System after Five Years and Structured Decision Making: Final Report*, June 2003, pp. 1 & 2.

Section 39.301, F.S., has required Florida's child protective investigators to apply the same set of investigative activities to all child abuse reports. Chapter 2003-127, L.O.F., amended this section to allow for an on-site and enhanced investigative processes and, thus, began the effort to provide for different levels of investigative activities. It was recognized from the onset that this tiered investigative process would only affect a very small number of cases, and, as a result, the practice issue of offering different levels of investigative activities was considered important for continued examination.

The discussions of the Retention Workgroup reinforced the importance of an investigative process that allows for different levels and types of investigative activities based on the circumstances of the case. Creating such a process would enable PIs to focus more attention on the serious abuse and neglect allegations and provide certain lower risk families with a less intrusive system that is focused on strengthening the functioning of families and, in turn, child safety and child well-being outcomes. As a result, the Retention Workgroup developed recommendations for piloting an Alternative Response Model in Florida. This proposed model would provide for some child abuse and neglect reports to be eligible for an Assessment Response Track, require other particular reports to be investigated using the current full investigative requirements, allow for reports of abuse to be closed using a streamlined process when there is clear and convincing evidence that no maltreatment occurred, and provide for an expedited closure of certain cases with referrals to community services when there are no safety threats and the family has sufficient protective capabilities. Reports of abuse and neglect placed on the Assessment Response Track would not be investigated to determine the perpetrator, but, instead, the focus would be on assessing the strengths and needs of the family to determine the services that would prevent recurrence of the abuse.

Workforce Issues

The focus groups and surveys conducted last year with the phase I *Retention of Protective Investigators and Protective Investigator Supervisors* interim project identified a number of factors related to the organization and its structure and operation as particular issues for Florida's PIs. Lack of administrative support and recognition for the work performed was evident and appeared to contribute to the burden the department PIs felt in the performance of their job. The perspective of the PIs was that the department did not provide positive reinforcement, recognize accomplishments, support the work of protective investigators, or shield the front-line staff from the pressures of the media. Hiring staff with the abilities and expectations required for the job and fully preparing them for the responsibilities are important prerequisites to retaining quality PIs. However, it appeared from the 2003 examination that the demand to get positions filled and taking cases quickly may have outweighed the value of more selective hiring and dedicated time to training.

The Retention Workgroup found that the system for hiring and preparing protective investigators for the job needed to be strengthened, and a culture of valuing employees from the highest administrative level within the organization to the frontline staff should be instituted. Towards this end, the Retention Workgroup developed recommendations to strengthen the process and requirements for hiring protective investigators including adding some experience in child welfare or a related area to the basic educational requirement for protective investigators and

protective investigative supervisors and enhancing the screening and hiring process to expose prospective staff to the job early, to consider utilizing a characteristic-based screening assessment, and to involve the supervisor in the selection decision. The Retention Workgroup developed recommendations to strengthen the training, including requiring a protected caseload and standardizing not only the pre-service classroom training but also the on-the-job training. Additional recommendations were developed to strengthen management's focus on the frontline staff.

III. Effect of Proposed Changes:

Senate Bill 1672 is the by-product of a Senate committee interim project focusing on the retention of protective investigators. It modifies the process for conducting institutional child abuse investigations, particularly in Department of Juvenile Justice facilities, by removing outdated provisions, shifting the responsibility to address certain allegations from the Department of Children and Families to the Department of Juvenile Justice, removing unnecessary investigative activities, and strengthening the actions available to the Department of Children and Families when safety is a concern. Both the Department of Children and Families and the Department of Juvenile Justice are required to develop policies and procedures to guide conducting and responding to institutional child abuse investigations. An interagency agreement between these two departments is required to further develop the necessary collaborations. The Department of Children and Families is to adopt rules for the hiring and training of child protective staff, develop a program design to pilot an alternative response system, and work with the courts to examine the information needed by the courts for a dependency case. A report on the implementation of all of the recommendations of the Protective Investigator Retention Workgroup is to be submitted to the Legislature by December 31, 2004.

Institutional Child Abuse in Department of Juvenile Justice Facilities

Specifically, s. 39.302, F.S., is amended to shift the responsibility to address certain environmental neglect allegations to the Department of Juvenile Justice. These allegations are specifically those identified by the DCF Operating Procedures (CF Operating Procedures No. 175-28) as inadequate food, inadequate shelter, inadequate clothes, and conditions hazardous to the child's health. With this bill, these allegations would be routed to DJJ to review and address. The Department of Children and Families is authorized by the bill to retain the ability to conduct an investigation if the neglect report presents a serious threat to the immediate safety of the child.

The requirement to automatically refer all reports accepted for child protective investigation to the state attorney is eliminated by this bill. The Department of Children and Families continues to be required to notify the state attorney if a criminal investigation is found to be needed. The bill expands this provision to require notification if criminal conduct is suspected. The Department of Children and Families is required by the bill to inform the owner or operator of the facility in which the investigation is being conducted of the report, regardless of whether the facility is licensed or not. The requirement that the protective investigation always include a visit to the child's family's residence is modified to require that the parents or legal custodian be

notified of the allegation within 48 hours of commencing the investigation. An on-site visit to the child's residence is only required if determined necessary or there is a need for further services.

Subsection (2) of s. 39.302, F.S., currently authorizes the department to restrict the access of a facility employee considered responsible for the abuse if that employee's continued contact poses a threat of harm to the child. This provision is expanded by the bill to require that other actions identified as necessary to respond to the immediate safety concern be implemented, if there is a continued threat of harm to the child. Specifically, the bill requires the agency or department with responsibility for the on-going regulation or oversight of a facility to ensure that the facility implements and continues the actions identified by the department to address the immediate safety concern while the protective investigation is being conducted. Some evidence that child abuse, neglect, or abandonment has occurred has been required by s. 39.302(2), F.S. This requirement is further refined by the bill's addition of needing the concurrence of the protective investigative supervisor which guards against the misuse of the expanded authority. The department is also authorized by the bill to recommend corrective actions after the completion of the investigation to prevent further abusive acts.

Senate Bill 1672 eliminates DCF's responsibility to assist a facility to maintain operation if the department's restriction of an employee's access to the child will result in the closure of the facility. It has been reported that this provision is not used. The bill also eliminates the provision allowing for the use of a specialized investigation under certain circumstances because the specific procedures for conducting an investigation will be delineated in rule and the utilization of specialized investigations can be incorporated in rule if determined needed.

The department is directed to adopt rules to guide the child protective investigations for each type of facility to which s. 39.302, F.S., applies. These rules are to provide for the conducting of institutional child protective investigations, the use of child safety assessments that are specific to the institutions instead of the current child safety assessment which is specific to familial abuse, communication and collaboration with the facilities and licensing or oversight agencies, and, in general, implementation of s. 39.302, F.S.

The Department of Juvenile Justice is directed by this bill to adopt and incorporate into the Department of Juvenile Justice Policy and Procedures for protecting the youth from abuse and responding to child protective investigations. These procedures are to apply to both detention centers and residential facilities and are to address the following: the procedures DJJ will use to respond to the environmental neglect reports being shifted from DCF to DJJ, sharing of information with DCF, responding to any immediate safety concerns identified during the investigation, facility medical staff examining the youth who is alleging the abuse, identifying possible corrective actions that may be recommended and implementing corrective actions, and adding to the grievance procedures the right of the youth to be protected from personal abuse.

Senate Bill 1672 requires DCF and DJJ to develop and enter into an interagency agreement relative to child abuse investigations in DJJ facilities. This interagency agreement requires the two departments to reach consensus on a number of issues where collaboration is necessary. These issues include the sharing of information that should occur between DCF and DJJ when a child protective investigation is initiated, as well as during the investigation and at its conclusion;

the level of harm to a child that warrants immediate safety actions or longer term corrective actions; the actions facilities should take in response to immediate safety concerns or corrective actions and how DJJ will monitor the implementation of these actions; how DJJ management will monitor DJJ's review and response to environmental neglect reports; holding quarterly meetings between the two agencies; developing a process to address disagreements that may arise between the two departments relative to responses to the child abuse investigations and actions identified as needed; and joint efforts in developing and delivering training to protective investigators in investigating institutional child abuse in DJJ facilities. The secretaries of each department must execute this interagency agreement no later than November 30, 2004.

Workforce Issues / Alternative Response System and Different Levels of Investigative Activities

The Department of Children and Families is directed to adopt rules that set forth the minimum education and experience requirements, as well as minimum screening and hiring requirements for protective investigators and protective investigative supervisors as recommended by the Retention Workgroup. In addition, the department is to adopt rules that provide for the minimum process requirements for child welfare training. These rules would include not only the recommendations of the Retention Workgroup, such as requiring a protected caseload and providing for training in institutional child abuse investigations, but will formalize the current training requirements including the requirement for pre-service training and certification. Establishing minimum hiring and training requirements in rule is anticipated to ensure more uniform and consistent application of current policy, as well as provide a firm directive for the enhancements recommended by the Retention Workgroup.

Finally, SB 1672 requires DCF to report to the Legislature by December 31, 2004 on the implementation of the recommendations in the Retention Workgroup. While this report is to present the actions taken to implement all the recommendations of the Retention Workgroup, specific direction is provided relative to some of these recommendations contained in the report. First, a full program design for piloting an alternative response system in Florida is to be developed which is to provide for different levels of investigation including a streamlined track, a family assessment track, and a traditional investigative track. This program design is to be developed in collaboration with all the potential players in the system and include, at a minimum, detailed requirements for the proposed system, the expectations of each of the players, possible pilot sites, and an evaluation component. Second, there is to be an examination of the information needed by the court and recommendations for revisions to the information currently required to be provided. This directive focuses not only on the elements needed in the predisposition study which the Retention Workgroup recommended be eliminated, but examines the information sharing between DCF and the courts comprehensively. Third, DCF and DJJ are to jointly present information on the status of the recommendations pertaining to institutional investigations in DJJ facilities. Fourth, the department is to report on the status of the rule development required by this bill.

The bill provides an effective date of July 1, 2004.

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:

The organizations which contract with DJJ to operate a number of their residential facilities will have more requirements to meet relative to responding to child abuse investigations and their findings. Meeting these requirements may have a fiscal impact. However, there will be greater accountability for actions needed to correct an abusive situation.

C. Government Sector Impact:

Both the Department of Children and Families and the Department of Juvenile Justice report there is no fiscal impact with this bill.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Amendments:

None.