

By the Committee on Children and Families

300-1233A-04

1 A bill to be entitled
2 An act relating to child protective
3 investigations; amending s. 39.302, F.S.;
4 requiring that the Department of Juvenile
5 Justice rather than the Department of Children
6 and Family Services investigate certain
7 allegations of child abuse, neglect, and
8 abandonment; providing an exception; deleting a
9 requirement that the Department of Children and
10 Family Services notify the state attorney of a
11 report of institutional child abuse;
12 authorizing a law enforcement agency and a
13 licensing or oversight agency conducting a
14 joint investigation to have access to
15 information of the Department of Children and
16 Family Services to the extent allowed by law;
17 requiring that the department inform the
18 facility of a report of child abuse; requiring
19 that the child's parent or legal custodian be
20 notified of the report; providing for an
21 on-site visit to the child's place of
22 residence; requiring the agency with oversight
23 responsibility of a facility to implement
24 identified safety actions under certain
25 circumstances; authorizing the Department of
26 Children and Family Services to recommend
27 corrective actions; deleting a requirement that
28 the department assist a facility in maintaining
29 its operation under certain circumstances;
30 requiring that the department notify the state
31 attorney or a law enforcement agency of

1 criminal conduct; requiring that criminal
2 investigations be coordinated with child
3 protective investigations when possible;
4 deleting requirements that the department
5 provide a specialized team to investigate child
6 abuse, neglect, or abandonment; requiring the
7 department to adopt procedures for child
8 protective investigations by rule; requiring
9 the Department of Juvenile Justice to adopt
10 policies for protecting youth from abuse and
11 for responding to child protective
12 investigations; requiring the Department of
13 Children and Family Services and the Department
14 of Juvenile Justice to develop and enter into
15 an interagency agreement; requiring the
16 Department of Children and Family Services to
17 adopt minimum hiring and training requirements
18 by rule; requiring the Department of Children
19 and Family Services to report to the Governor
20 and the Legislature on its implementation of
21 the recommendations of an interim project and
22 the recommendations of the Protective
23 Investigator Retention Workgroup; providing an
24 effective date.

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

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28 Section 1. Section 39.302, Florida Statutes, is
29 amended to read:

30 39.302 Protective investigations of institutional
31 child abuse, abandonment, or neglect.--

1 (1) The department shall conduct a child protective
2 investigation of each report of institutional child abuse,
3 abandonment, or neglect. Upon receipt of a report that
4 alleges that an employee or agent of the department, or any
5 other entity or person covered by s. 39.01(31) or (47), acting
6 in an official capacity, has committed an act of child abuse,
7 abandonment, or neglect, the department shall initiate a child
8 protective investigation within the timeframe established by
9 the central abuse hotline pursuant to s. 39.201(5).

10 (a) Notwithstanding any other provision in this
11 section or s. 39.301 and notwithstanding the definitions of
12 abuse, abandonment, or neglect in s. 39.01, the department may
13 not initiate a child protective investigation in response to a
14 report of neglect pertaining to the deprivation of food,
15 shelter, or clothing of a child or pertaining to the child's
16 environment and causing impairment if the neglect is alleged
17 to have been committed by an employee of a facility of the
18 Department of Juvenile Justice. The Department of Juvenile
19 Justice shall review and respond internally to any such
20 report. However, the department retains the authority to
21 conduct an investigation if the reported neglect seriously
22 threatens the immediate safety or well-being of the child.

23 (b) Upon initiation of the child protective
24 investigation, the department shall ~~and~~ orally notify the
25 appropriate ~~state attorney,~~ law enforcement agency, ~~and~~
26 licensing or oversight agency of the allegation of child
27 abuse, abandonment, or neglect. ~~These agencies shall~~
28 ~~immediately conduct~~ A joint investigation shall be conducted,
29 unless independent investigations are more feasible. When
30 conducting a joint investigation, these agencies shall be
31 entitled to full access to the information gathered by the

1 department in the course of the investigation, as allowed by
2 law.

3 (c) The department shall inform the owner or operator
4 of the facility of the report.When conducting investigations
5 onsite or having face-to-face interviews with the child, such
6 investigation visits shall be unannounced unless it is
7 determined by the department or its agent that such
8 unannounced visits would threaten the safety of the child. The
9 department shall the child's parent or legal custodian of the
10 allegation within 48 hours after commencement of the
11 investigation. If determined necessary or if there is a need
12 for further services, an on-site visit to the child's place of
13 residence shall be conducted as part of the protective
14 investigation.~~When a facility is exempt from licensing, the~~
15 ~~department shall inform the owner or operator of the facility~~
16 ~~of the report. Each agency conducting a joint investigation~~
17 ~~shall be entitled to full access to the information gathered~~
18 ~~by the department in the course of the investigation. A~~
19 ~~protective investigation must include an onsite visit of the~~
20 ~~child's place of residence. In all cases, the department shall~~
21 ~~make a full written report to the state attorney within 3~~
22 ~~working days after making the oral report. A criminal~~
23 ~~investigation shall be coordinated, whenever possible, with~~
24 ~~the child protective investigation of the department. Any~~
25 ~~interested person who has information regarding the offenses~~
26 ~~described in this subsection may forward a statement to the~~
27 ~~state attorney as to whether prosecution is warranted and~~
28 ~~appropriate. Within 15 days after the completion of the~~
29 ~~investigation, the state attorney shall report the findings to~~
30 ~~the department and shall include in such report a~~

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1 ~~determination of whether or not prosecution is justified and~~
2 ~~appropriate in view of the circumstances of the specific case.~~
3 (2)(a) If in the course of the child protective
4 investigation, the department finds that ~~a subject of a~~
5 ~~report, by continued contact with children in care,~~
6 ~~constitutes~~ a threatened harm to the physical health, mental
7 health, or welfare of the child continues to exist, the agency
8 or department responsible for the ongoing regulation or
9 oversight of the particular facility shall ensure that the
10 facility immediately implements the actions identified by the
11 department in order to respond to the immediate safety
12 concern. Such actions may include, but are not limited to,
13 restricting children, the department may restrict a subject's
14 access to the child ~~children~~ pending the outcome of the
15 investigation. The agency or department responsible for the
16 ongoing regulation or oversight of the facility shall ensure
17 that the facility continues the implemented action pending the
18 outcome of the investigation.The department or its agent
19 shall employ the least restrictive means necessary to
20 safeguard the physical health, mental health, and welfare of
21 the children in care. This authority applies ~~shall apply~~ only
22 to a child protective investigation ~~investigations~~ in which
23 there is some evidence that child abuse, abandonment, or
24 neglect has occurred and must be authorized by the protective
25 investigative supervisor. A subject of a report whose access
26 to the child ~~children~~ in care has been restricted and a
27 facility that is required to implement an action to respond to
28 the immediate safety concern pursuant to this subsection are
29 ~~is~~ entitled to petition the circuit court for judicial review.
30 The court shall enter written findings of fact based upon the
31 preponderance of evidence that child abuse, abandonment, or

1 neglect did occur and that the department's restrictive action
2 ~~against a subject of the report~~ was justified in order to
3 safeguard the physical health, mental health, and welfare of
4 the child ~~children~~ in care. The restrictive action of the
5 department shall be effective for no more than 90 days without
6 a judicial finding supporting the actions of the department.

7 (b) Upon completion of the department's child
8 protective investigation, the department may recommend
9 corrective action to the facility, and to the agency or
10 department with ongoing regulation or oversight, in order to
11 prevent further abusive acts. The department may also make
12 application to the circuit court for continued restrictive
13 action against any person necessary to safeguard the physical
14 health, mental health, and welfare of the children in care.

15 ~~(3) Pursuant to the restrictive actions described in~~
16 ~~subsection (2), in cases of institutional abuse, abandonment,~~
17 ~~or neglect in which the removal of a subject of a report will~~
18 ~~result in the closure of the facility, and when requested by~~
19 ~~the owner of the facility, the department may provide~~
20 ~~appropriate personnel to assist in maintaining the operation~~
21 ~~of the facility. The department may provide assistance when it~~
22 ~~can be demonstrated by the owner that there are no reasonable~~
23 ~~alternatives to such action. The length of the assistance~~
24 ~~shall be agreed upon by the owner and the department; however,~~
25 ~~the assistance shall not be for longer than the course of the~~
26 ~~restrictive action imposed pursuant to subsection (2). The~~
27 ~~owner shall reimburse the department for the assistance of~~
28 ~~personnel provided.~~

29 (3)(4) The department shall notify the Florida local
30 advocacy council in the appropriate district of the department
31 as to every report of institutional child abuse, abandonment,

1 or neglect in the district in which a client of the department
2 is alleged or shown to have been abused, abandoned, or
3 neglected, which notification shall be made within 48 hours
4 after the department commences its investigation.

5 (4)(5) The department shall notify the state attorney
6 and the appropriate law enforcement agency of any case of
7 ~~other~~ child abuse, abandonment, or neglect ~~case~~ in which
8 criminal conduct is suspected or for any other reason, a
9 criminal investigation is deemed appropriate by the
10 department. A criminal investigation shall be coordinated,
11 whenever possible, with the child protective investigation of
12 the department.

13 ~~(6) In cases of institutional child abuse,~~
14 ~~abandonment, or neglect in which the multiplicity of reports~~
15 ~~of abuse, abandonment, or neglect or the severity of the~~
16 ~~allegations indicates the need for specialized investigation~~
17 ~~by the department in order to afford greater safeguards for~~
18 ~~the physical health, mental health, and welfare of the~~
19 ~~children in care, the department shall provide a team of~~
20 ~~persons specially trained in the areas of child abuse,~~
21 ~~abandonment, and neglect investigations, diagnosis, and~~
22 ~~treatment to assist the local office of the department in~~
23 ~~expediting its investigation and in making recommendations for~~
24 ~~restrictive actions and to assist in other ways deemed~~
25 ~~necessary by the department in order to carry out the~~
26 ~~provisions of this section. The specially trained team shall~~
27 ~~also provide assistance to any investigation of the~~
28 ~~allegations by local law enforcement and the Department of Law~~
29 ~~Enforcement.~~

30 (5) The department shall adopt by rule procedures for
31 child protective investigations within each type of facility

1 subject to this section. The rule must include, but need not
2 be limited to, procedures for the conduct of investigations
3 within the facilities; the use of child safety assessments
4 that are specific to each broad category of institution; the
5 sharing of information among and collaboration between the
6 department, the facilities, and the licensing or oversight
7 agencies; and the implementation of this section.

8 Section 2. The Department of Juvenile Justice shall
9 develop and adopt as part of the Florida Department of
10 Juvenile Justice Policy and Procedures for Detention Centers
11 and Residential Facilities procedures for protecting the youth
12 from abuse and responding to child protective investigations.
13 The procedures must include, but need not be limited to,
14 procedures for:

15 (1) Responding to reports of neglect pursuant to
16 section 39.302(1)(a), Florida Statutes;

17 (2) Communicating and collaborating with the
18 Department of Children and Family Services;

19 (3) Responding to the immediate safety concerns of the
20 Department of Children and Family Services or a sheriff's
21 child protection office during an investigation;

22 (4) Providing for medical staff of the facility to
23 examine youth alleging abuse;

24 (5) Identifying options for corrective action which
25 may be recommended by the Department of Children and Family
26 Services or a sheriff's child protection office;

27 (6) Implementing corrective action; and

28 (7) Incorporating into the required minimum grievance
29 procedures the right of youth to be protected from personal
30 abuse.

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1 Section 3. The Department of Children and Family
2 Services and the Department of Juvenile Justice shall develop
3 an interagency agreement regarding conducting and responding
4 to child protective investigations in facilities of the
5 Department of Juvenile Justice. The agreement shall be
6 executed by the Secretary of Children and Family Services and
7 the Secretary of Juvenile Justice by November 30, 2004, and
8 must address:

9 (1) The communication that will occur between the
10 departments at the onset, during the course of, and upon
11 completion of a child protective investigation;

12 (2) A definition of what level of harm constitutes the
13 need for a response to immediate safety concerns and
14 corrective action by a facility;

15 (3) The expectation for actions to be taken in
16 response to immediate safety concerns, for corrective actions
17 by a facility, and for review by the management of the
18 Department of Juvenile Justice concerning the implementation
19 of such actions;

20 (4) A defined system of review by the management of
21 the Department of Juvenile Justice of neglect allegations that
22 will be investigated by the Department of Juvenile Justice;

23 (5) A schedule for quarterly meetings between the
24 Department of Children and Family Services and the Department
25 of Juvenile Justice;

26 (6) A process for resolving disagreements between the
27 Department of Juvenile Justice and the Department of Children
28 and Family Services relative to responses to immediate safety
29 concerns and corrective actions; and

30 (7) A process for collaboration in the development and
31 delivery of training for protective investigators who

1 investigate child abuse and neglect within facilities of the
2 Department of Juvenile Justice.

3 Section 4. The Department of Children and Family
4 Services shall develop and adopt by rule minimum requirements
5 for hiring and training child protective staff. The rules
6 shall provide minimum requirements for:

7 (1) Education and experience for child protective
8 investigators and child protective investigative supervisors,
9 as recommended in the Protective Investigator Retention
10 Workgroup report dated December 31, 2003, and for screening
11 and hiring, including, but not limited to, exposure to the job
12 functions prior to actual employment, thorough background
13 checks, use of an effective characteristic-based screening
14 tool, and involvement of the supervisor in the selection
15 decision; and

16 (2) Training processes, which must include, but need
17 not be limited to, requirements for preservice training and
18 certification, requirements for local-service-area-specific
19 training that incorporates a strong on-the-job training
20 component and requires a protected caseload for newly hired
21 employees, and the provision of specialty or advanced
22 training, including training in the investigation of
23 institutional child abuse.

24 Section 5. The Department of Children and Family
25 Services shall submit a report by December 31, 2004, to the
26 Governor, the President of the Senate, and the Speaker of the
27 House of Representatives regarding the implementation of the
28 recommendations of Interim Project Report 2004-113 and the
29 Protective Investigator Retention Workgroup Report dated
30 December 31, 2003. Specifically, this report must contain:

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1 (1) A full program design, as a pilot project, for an
2 alternative response system in Florida which is based, to the
3 extent possible, on the model recommended in the Protective
4 Investigator Retention Workgroup Report, including detailed
5 requirements of the multiple elements involved in the proposed
6 system, the expectations of each of the entities, possible
7 sites for the pilot project, and an evaluation component. This
8 alternative response system shall provide for different levels
9 of investigative activities, including a streamlined track, a
10 family assessment track, and a traditional investigative
11 track. The program design shall be developed in collaboration
12 with all potential stakeholders, including, but not limited
13 to, district protective investigative staff, the sheriffs'
14 offices conducting child protective investigations, and
15 community-based-care lead agencies.

16 (2) The results of an examination of the information
17 needed by the court at each stage of a dependency case and
18 recommendations for any revisions to the information that is
19 required to be provided or for revisions in the timing of the
20 submission of such information to the court. This examination
21 and development of recommendations shall be conducted jointly
22 with the Steering Committee of Families and Children of the
23 Supreme Court.

24 (3) The status of the implementation of the
25 recommendations regarding investigating child abuse in
26 facilities of the Department of Juvenile Justice, including
27 the interagency agreement developed between the Department of
28 Children and Family Services and the Department of Juvenile
29 Justice regarding conducting and responding to child
30 protective investigations in facilities of the Department of
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1 Juvenile Justice. This portion of the report shall be
2 developed jointly with the Department of Juvenile Justice.

3 (4) The status of the development of rules to
4 institute minimum hiring and training requirements for child
5 protective staff.

6 (5) The actions taken to implement the remaining
7 recommendations of the Protective Investigative Retention
8 Workgroup.

9 Section 6. This act shall take effect July 1, 2004.

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12 SENATE SUMMARY

13 Revises various procedures for conducting child
14 protective investigations. Provides requirements for the
15 Department of Juvenile Justice and the Department of
16 Children and Family Services. Requires that the state
17 attorney or a law enforcement agency be notified only in
18 the case of criminal conduct. Provides for a law
19 enforcement agency and licensing agency conducting a
20 joint investigation to have access to information of the
21 Department of Children and Family Services to the extent
22 allowed by law. Requires the Department of Children and
23 Family Services to adopt by rule procedures for
24 conducting child protective investigations and for hiring
25 and training staff members. Requires the Department of
26 Juvenile Justice to adopt policies for protecting youth
27 from abuse and for responding to child protective
28 investigations. Requires the Department of Children and
29 Family Services and the Department of Juvenile Justice to
30 develop and enter into an interagency agreement. Requires
31 that the Department of Children and Family Services
report to the Governor and the Legislature on its
implementation of certain recommendations. (See bill for
details.)