

By Senator Wise

5-640A-05

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 requiring that notice of a child protective

9 investigation be given to child care

10 registration agencies; authorizing the subject

11 of a report by the department making a

12 determination of indicated abuse or verified

13 abuse to request an administrative hearing

14 under certain circumstances; providing for

15 notice of the right to an administrative

16 hearing; requiring the subject of the report to

17 request a hearing in writing within a specified

18 period; providing certain restrictions on

19 entering the name of the subject of the report

20 into the department's statewide database or

21 central abuse registry; providing an effective

22 date.

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

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

28 39.301 Initiation of protective investigations.--

29 (22) If the state attorney finds that prosecution of

30 the case is not justified and the department makes a

31 determination of indicated abuse or verified abuse by a

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

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

12 (b) A request for a hearing under this subsection must
13 be made to the department in writing no later than 30 days
14 after the subject receives the notice from the department of a
15 determination of indicated abuse or verified abuse.

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

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

23 39.302 Protective investigations of institutional
24 child abuse, abandonment, or neglect.--

25 (1)(a) The department shall conduct a child protective
26 investigation of each report of institutional child abuse,
27 abandonment, or neglect. Upon receipt of a report that
28 alleges that an employee or agent of the department, or any
29 other entity or person covered by s. 39.01(31) or (47), acting
30 in an official capacity, has committed an act of child abuse,
31 abandonment, or neglect, the department shall initiate a child

1 protective investigation within the timeframe established by
2 the central abuse hotline under ~~pursuant to~~ s. 39.201(5) and
3 orally notify the appropriate state attorney, law enforcement
4 agency, and licensing or registration agency. These agencies
5 shall immediately conduct a joint investigation, unless
6 independent investigations are more feasible. When conducting
7 investigations onsite or having face-to-face interviews with
8 the child, the ~~such~~ investigation visits shall be unannounced
9 unless it is determined by the department or its agent that
10 the ~~such~~ unannounced visits would threaten the safety of the
11 child. When a facility is exempt from licensure or
12 registration ~~licensing~~, the department shall inform the owner
13 or operator of the facility of the report. Each agency
14 conducting a joint investigation shall be entitled to full
15 access to the information gathered by the department in the
16 course of the investigation. A protective investigation must
17 include an onsite visit of the child's place of residence. In
18 all cases, the department shall make a full written report to
19 the state attorney within 3 working days after making the oral
20 report. A criminal investigation shall be coordinated,
21 whenever possible, with the child protective investigation of
22 the department. Any interested person who has information
23 regarding the offenses described in this subsection may
24 forward a statement to the state attorney as to whether
25 prosecution is warranted and appropriate. Within 15 days after
26 the completion of the investigation, the state attorney shall
27 report the findings to the department and shall include in the
28 ~~such~~ report a determination of whether or not prosecution is
29 justified and appropriate in view of the circumstances of the
30 specific case.

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1 (b) If the state attorney finds that prosecution of
2 the case is not justified and the department makes a
3 determination of indicated abuse or verified abuse by a
4 subject of the report, the finding constitutes a substantial
5 interest of the subject of the report and he or she may
6 request an administrative hearing to contest the determination
7 under ss. 120.569 and 120.57.

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

15 2. A request for a hearing under this subsection must
16 be made to the department in writing no later than 30 days
17 after the subject receives the notice from the department of a
18 determination of indicated abuse or verified abuse.

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

24 Section 3. This act shall take effect July 1, 2005.
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SENATE SUMMARY

Authorizes the subject of a report of child abuse, abandonment, or neglect to request an administrative hearing in certain cases in which the Department of Children and Family Services makes a determination of indicated abuse or verified abuse. Requires notice to the subject of the report. Requires that a request for an administrative hearing be made within 30 days after 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.