

Bill No. CS for CS for SB 1080

Barcode 085974

	CHAMBER ACTION	
<u>Senate</u>		<u>House</u>

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11 Senator Campbell moved the following amendment:

12

13 **Senate Amendment**

14 On page 12, line 27, through
15 page 23, line 19, delete those lines

16

17 and insert:

18 ~~(30)(29)~~ "Foster care" means care provided a child in
19 a foster family or boarding home, group home, agency boarding
20 home, child care institution, or any combination thereof.

21 ~~(31)(30)~~ "Harm" to a child's health or welfare can
22 occur when any person:

23 (a) Inflicts or allows to be inflicted upon the child
24 physical, mental, or emotional injury. In determining whether
25 harm has occurred, the following factors must be considered in
26 evaluating any physical, mental, or emotional injury to a
27 child: the age of the child; any prior history of injuries to
28 the child; the location of the injury on the body of the
29 child; the multiplicity of the injury; and the type of trauma
30 inflicted. Such injury includes, but is not limited to:

31 1. Willful acts that produce the following specific

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1 injuries:

- 2 a. Sprains, dislocations, or cartilage damage.
- 3 b. Bone or skull fractures.
- 4 c. Brain or spinal cord damage.
- 5 d. Intracranial hemorrhage or injury to other internal
- 6 organs.
- 7 e. Asphyxiation, suffocation, or drowning.
- 8 f. Injury resulting from the use of a deadly weapon.
- 9 g. Burns or scalding.
- 10 h. Cuts, lacerations, punctures, or bites.
- 11 i. Permanent or temporary disfigurement.
- 12 j. Permanent or temporary loss or impairment of a body
- 13 part or function.

14
15 As used in this subparagraph, the term "willful" refers to the
16 intent to perform an action, not to the intent to achieve a
17 result or to cause an injury.

18 2. Purposely giving a child poison, alcohol, drugs, or
19 other substances that substantially affect the child's
20 behavior, motor coordination, or judgment or that result in
21 sickness or internal injury. For the purposes of this
22 subparagraph, the term "drugs" means prescription drugs not
23 prescribed for the child or not administered as prescribed,
24 and controlled substances as outlined in Schedule I or
25 Schedule II of s. 893.03.

26 3. Leaving a child without adult supervision or
27 arrangement appropriate for the child's age or mental or
28 physical condition, so that the child is unable to care for
29 the child's own needs or another's basic needs or is unable to
30 exercise good judgment in responding to any kind of physical
31 or emotional crisis.

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1 4. Inappropriate or excessively harsh disciplinary
2 action that is likely to result in physical injury, mental
3 injury as defined in this section, or emotional injury. The
4 significance of any injury must be evaluated in light of the
5 following factors: the age of the child; any prior history of
6 injuries to the child; the location of the injury on the body
7 of the child; the multiplicity of the injury; and the type of
8 trauma inflicted. Corporal discipline may be considered
9 excessive or abusive when it results in any of the following
10 or other similar injuries:

- 11 a. Sprains, dislocations, or cartilage damage.
- 12 b. Bone or skull fractures.
- 13 c. Brain or spinal cord damage.
- 14 d. Intracranial hemorrhage or injury to other internal
15 organs.
- 16 e. Asphyxiation, suffocation, or drowning.
- 17 f. Injury resulting from the use of a deadly weapon.
- 18 g. Burns or scalding.
- 19 h. Cuts, lacerations, punctures, or bites.
- 20 i. Permanent or temporary disfigurement.
- 21 j. Permanent or temporary loss or impairment of a body
22 part or function.
- 23 k. Significant bruises or welts.

24 (b) Commits, or allows to be committed, sexual
25 battery, as defined in chapter 794, or lewd or lascivious
26 acts, as defined in chapter 800, against the child.

27 (c) Allows, encourages, or forces the sexual
28 exploitation of a child, which includes allowing, encouraging,
29 or forcing a child to:

- 30 1. Solicit for or engage in prostitution; or
- 31 2. Engage in a sexual performance, as defined by

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1 chapter 827.

2 (d) Exploits a child, or allows a child to be
3 exploited, as provided in s. 450.151.

4 (e) Abandons the child. Within the context of the
5 definition of "harm," the term "abandons the child" means that
6 the parent or legal custodian of a child or, in the absence of
7 a parent or legal custodian, the person responsible for the
8 child's welfare, while being able, makes no provision for the
9 child's support and makes no effort to communicate with the
10 child, which situation is sufficient to evince a willful
11 rejection of parental obligation. If the efforts of ~~the~~ ~~such~~
12 ~~a~~ parent or legal custodian or person primarily responsible
13 for the child's welfare to support and communicate with the
14 child are only marginal efforts that do not evince a settled
15 purpose to assume all parental duties, the child may be
16 determined to have been abandoned. The term "abandoned" does
17 not include an abandoned newborn infant as described in s.
18 383.50.

19 (f) Neglects the child. Within the context of the
20 definition of "harm," the term "neglects the child" means that
21 the parent or other person responsible for the child's welfare
22 fails to supply the child with adequate food, clothing,
23 shelter, or health care, although financially able to do so or
24 although offered financial or other means to do so. However,
25 a parent or legal custodian who, by reason of the legitimate
26 practice of religious beliefs, does not provide specified
27 medical treatment for a child may not be considered abusive or
28 neglectful for that reason alone, but such an exception does
29 not:

- 30 1. Eliminate the requirement that such a case be
31 reported to the department;

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1 2. Prevent the department from investigating such a
2 case; or

3 3. Preclude a court from ordering, when the health of
4 the child requires it, the provision of medical services by a
5 physician, as defined in this section, or treatment by a duly
6 accredited practitioner who relies solely on spiritual means
7 for healing in accordance with the tenets and practices of a
8 well-recognized church or religious organization.

9 (g) Exposes a child to a controlled substance or
10 alcohol. Exposure to a controlled substance or alcohol is
11 established by:

12 1. Use by the mother of a controlled substance or
13 alcohol during pregnancy when the child, at birth, is
14 demonstrably adversely affected by such usage; or

15 2. Continued chronic and severe use of a controlled
16 substance or alcohol by a parent when the child is
17 demonstrably adversely affected by such usage.

18
19 As used in this paragraph, the term "controlled substance"
20 means prescription drugs not prescribed for the parent or not
21 administered as prescribed and controlled substances as
22 outlined in Schedule I or Schedule II of s. 893.03.

23 (h) Uses mechanical devices, unreasonable restraints,
24 or extended periods of isolation to control a child.

25 (i) Engages in violent behavior that demonstrates a
26 wanton disregard for the presence of a child and could
27 reasonably result in serious injury to the child.

28 (j) Negligently fails to protect a child in his or her
29 care from inflicted physical, mental, or sexual injury caused
30 by the acts of another.

31 (k) Has allowed a child's sibling to die as a result

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1 of abuse, abandonment, or neglect.

2 (1) Makes the child unavailable for the purpose of
3 impeding or avoiding a protective investigation unless the
4 court determines that the parent, legal custodian, or
5 caregiver was fleeing from a situation involving domestic
6 violence.

7 ~~(32)(31)~~ "Institutional child abuse or neglect" means
8 situations of known or suspected child abuse or neglect in
9 which the person allegedly perpetrating the child abuse or
10 neglect is an employee of a private school, public or private
11 day care center, residential home, institution, facility, or
12 agency or any other person at such institution responsible for
13 the child's care.

14 ~~(33)(32)~~ "Judge" means the circuit judge exercising
15 jurisdiction pursuant to this chapter.

16 ~~(34)(33)~~ "Legal custody" means a legal status created
17 by a court ~~order or letter of guardianship~~ which vests in a
18 custodian of the person or guardian, whether an agency or an
19 individual, the right to have physical custody of the child
20 and the right and duty to protect, nurture, guide ~~train~~, and
21 discipline the child and to provide him or her with food,
22 shelter, education, and ordinary medical, dental, psychiatric,
23 and psychological care. ~~The legal custodian is the person or~~
24 ~~entity in whom the legal right to custody is vested. For~~
25 ~~purposes of this chapter only, when the phrase "parent or~~
26 ~~legal custodian" is used, it refers to rights or~~
27 ~~responsibilities of the parent and, only if there is no living~~
28 ~~parent with intact parental rights, to the rights or~~
29 ~~responsibilities of the legal custodian who has assumed the~~
30 ~~role of the parent.~~

31 ~~(34)~~ "Legal guardianship" means a judicially created

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1 ~~relationship between the child and caregiver which is intended~~
2 ~~to be permanent and self-sustaining and is provided pursuant~~
3 ~~to the procedures in chapter 744.~~

4 (35) "Licensed child-caring agency" means a person,
5 society, association, or agency licensed by the department to
6 care for, receive, and board children.

7 (36) "Licensed child-placing agency" means a person,
8 society, association, or institution licensed by the
9 department to care for, receive, or board children and to
10 place children in a licensed child-caring institution or a
11 foster or adoptive home.

12 (37) "Licensed health care professional" means a
13 physician licensed under chapter 458, an osteopathic physician
14 licensed under chapter 459, a nurse licensed under part I of
15 chapter 464, a physician assistant licensed under chapter 458
16 or chapter 459, or a dentist licensed under chapter 466.

17 (38) "Likely to injure oneself" means that, as
18 evidenced by violent or other actively self-destructive
19 behavior, it is more likely than not that within a 24-hour
20 period the child will attempt to commit suicide or inflict
21 serious bodily harm on himself or herself.

22 (39) "Likely to injure others" means that it is more
23 likely than not that within a 24-hour period the child will
24 inflict serious and unjustified bodily harm on another person.

25 ~~(40) "Long-term relative custodian" means an adult~~
26 ~~relative who is a party to a long-term custodial relationship~~
27 ~~created by a court order pursuant to this chapter.~~

28 ~~(41) "Long-term custody" or "long-term custodial~~
29 ~~relationship" means the relationship that a juvenile court~~
30 ~~order creates between a child and an adult relative of the~~
31 ~~child or other legal custodian approved by the court when the~~

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1 ~~child cannot be placed in the custody of a parent and adoption~~
2 ~~is not deemed to be in the best interest of the child.~~
3 ~~Long term custody confers upon the relative or other legal~~
4 ~~custodian, other than the department, the right to physical~~
5 ~~custody of the child, a right which will not be disturbed by~~
6 ~~the court except upon request of the legal custodian or upon a~~
7 ~~showing that the best interest of the child necessitates a~~
8 ~~change of custody for the child. A relative or other legal~~
9 ~~custodian who has been designated as a long-term custodian~~
10 ~~shall have all of the rights and duties of a parent,~~
11 ~~including, but not limited to, the right and duty to protect,~~
12 ~~train, and discipline the child and to provide the child with~~
13 ~~food, shelter, and education, and ordinary medical, dental,~~
14 ~~psychiatric, and psychological care, unless these rights and~~
15 ~~duties are otherwise enlarged or limited by the court order~~
16 ~~establishing the long term custodial relationship.~~

17 ~~(40)(42)~~ "Mediation" means a process whereby a neutral
18 third person called a mediator acts to encourage and
19 facilitate the resolution of a dispute between two or more
20 parties. It is an informal and nonadversarial process with
21 the objective of helping the disputing parties reach a
22 mutually acceptable and voluntary agreement. The role of the
23 mediator includes, but is not limited to, assisting the
24 parties in identifying issues, fostering joint problem
25 solving, and exploring settlement alternatives.

26 ~~(41)(43)~~ "Mental injury" means an injury to the
27 intellectual or psychological capacity of a child as evidenced
28 by a discernible and substantial impairment in the ability to
29 function within the normal range of performance and behavior.

30 ~~(42)(44)~~ "Necessary medical treatment" means care
31 which is necessary within a reasonable degree of medical

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1 certainty to prevent the deterioration of a child's condition
2 or to alleviate immediate pain of a child.

3 ~~(43)(45)~~ "Neglect" occurs when a child is deprived of,
4 or is allowed to be deprived of, necessary food, clothing,
5 shelter, or medical treatment or a child is permitted to live
6 in an environment when such deprivation or environment causes
7 the child's physical, mental, or emotional health to be
8 significantly impaired or to be in danger of being
9 significantly impaired. The foregoing circumstances shall not
10 be considered neglect if caused primarily by financial
11 inability unless actual services for relief have been offered
12 to and rejected by such person. A parent or legal custodian
13 legitimately practicing religious beliefs in accordance with a
14 recognized church or religious organization who thereby does
15 not provide specific medical treatment for a child may ~~shall~~
16 not, for that reason alone, be considered a negligent parent
17 or legal custodian; however, such an exception does not
18 preclude a court from ordering the following services to be
19 provided, when the health of the child so requires:

20 (a) Medical services from a licensed physician,
21 dentist, optometrist, podiatric physician, or other qualified
22 health care provider; or

23 (b) Treatment by a duly accredited practitioner who
24 relies solely on spiritual means for healing in accordance
25 with the tenets and practices of a well-recognized church or
26 religious organization.

27
28 Neglect of a child includes acts or omissions.

29 ~~(44)(46)~~ "Next of kin" means an adult relative of a
30 child who is the child's brother, sister, grandparent, aunt,
31 uncle, or first cousin.

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1 ~~(45)(47)~~ "Other person responsible for a child's
 2 welfare" includes the child's legal guardian, ~~legal custodian,~~
 3 or foster parent; an employee of a private school, public or
 4 private child day care center, residential home, institution,
 5 facility, or agency; or any other person legally responsible
 6 for the child's welfare in a residential setting; and also
 7 includes an adult sitter or relative entrusted with a child's
 8 care. For the purpose of departmental investigative
 9 jurisdiction, this definition does not include law enforcement
 10 officers, or employees of municipal or county detention
 11 facilities or the Department of Corrections, while acting in
 12 an official capacity.

13 ~~(46)(48)~~ "Out-of-home" means a placement outside of
 14 the home of the parents or a parent.

15 ~~(47)(49)~~ "Parent" means a woman who gives birth to a
 16 child and a man whose consent to the adoption of the child
 17 would be required under s. 63.062(1). If a child has been
 18 legally adopted, the term "parent" means the adoptive mother
 19 or father of the child. The term does not include an
 20 individual whose parental relationship to the child has been
 21 legally terminated, or an alleged or prospective parent,
 22 unless the parental status falls within the terms of s.
 23 39.503(1) or s. 63.062(1). For purposes of this chapter only,
 24 when the phrase "parent or legal custodian" is used, it refers
 25 to rights or responsibilities of the parent and, only if there
 26 is no living parent with intact parental rights, to the rights
 27 or responsibilities of the legal custodian who has assumed the
 28 role of the parent.

29 ~~(48)(50)~~ "Participant," for purposes of a shelter
 30 proceeding, dependency proceeding, or termination of parental
 31 rights proceeding, means any person who is not a party but who

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1 should receive notice of hearings involving the child,
 2 including the actual custodian of the child, the foster
 3 parents or the legal custodian of the child, identified
 4 prospective parents, ~~grandparents entitled to priority for~~
 5 ~~adoption consideration under s. 63.0425, actual custodians of~~
 6 ~~the child,~~ and any other person whose participation may be in
 7 the best interest of the child. A community-based agency under
 8 contract with the department to provide protective services
 9 may be designated as a participant at the discretion of the
 10 court. Participants may be granted leave by the court to be
 11 heard without the necessity of filing a motion to intervene.

12 ~~(49)(51)~~ "Party" means the parent or parents of the
 13 child, the petitioner, the department, the guardian ad litem
 14 or the representative of the guardian ad litem program when
 15 the program has been appointed, and the child. The presence of
 16 the child may be excused by order of the court when presence
 17 would not be in the child's best interest. Notice to the child
 18 may be excused by order of the court when the age, capacity,
 19 or other condition of the child is such that the notice would
 20 be meaningless or detrimental to the child.

21 (50) "Permanency goal" means the living arrangement
 22 identified for the child to return to or identified as the
 23 permanent living arrangement of the child. Permanency goals
 24 applicable under this chapter, listed in order of preference,
 25 are:

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