



498052

CHAMBER ACTION

Senate

House

.
. .
. .
. .

Floor: 1d/RE/2R
4/23/2008 10:07 PM

1 Senator Storms moved the following **amendment to amendment**
2 **(784706)** :

3
4 **Senate Amendment (with title amendment)**

5 Delete line(s) 41-305
6 and insert:

7
8 (14) "Child who has exhibited inappropriate sexual
9 behavior" means a child who is 12 years of age or younger and who
10 has been found by the department or the court to have committed
11 an inappropriate sexual act.

12 (32)-(31) "Harm" to a child's health or welfare can occur
13 when any person:

14 (e) Abandons the child. Within the context of the
15 definition of "harm," the term "abandoned the child" or
16 "abandonment of the child" means a situation in which the parent
17 or legal custodian of a child or, in the absence of a parent or



498052

18 legal custodian, the caregiver, while being able, makes no
19 provision for the child's support and has failed to establish or
20 maintain a substantial and positive relationship with the child.
21 For purposes of this paragraph, "establish or maintain a
22 substantial and positive relationship" includes, but is not
23 limited to, frequent and regular contact with the child through
24 frequent and regular visitation or frequent and regular
25 communication to or with the child, and the exercise of parental
26 rights and responsibilities. Marginal efforts and incidental or
27 token visits or communications are not sufficient to establish or
28 maintain a substantial and positive relationship with a child
29 ~~"abandons the child" means that the parent or legal custodian of~~
30 ~~a child or, in the absence of a parent or legal custodian, the~~
31 ~~person responsible for the child's welfare, while being able,~~
32 ~~makes no provision for the child's support and makes no effort to~~
33 ~~communicate with the child, which situation is sufficient to~~
34 ~~evince a willful rejection of parental obligation. If the efforts~~
35 ~~of the parent or legal custodian or person primarily responsible~~
36 ~~for the child's welfare to support and communicate with the child~~
37 ~~are only marginal efforts that do not evince a settled purpose to~~
38 ~~assume all parental duties, the child may be determined to have~~
39 ~~been abandoned. The term "abandoned" does not include an~~
40 ~~abandoned newborn infant as described in s. 383.50.~~

41 (g) Exposes a child to a controlled substance or alcohol.
42 Exposure to a controlled substance or alcohol is established by:

- 43 1. A test, administered at birth, which indicated that the
44 child's blood, urine, or meconium contained any amount of alcohol
45 or a controlled substance or metabolites of such substances, the
46 presence of which was not the result of medical treatment
47 administered to the mother or the newborn infant ~~Use by the~~



498052

48 ~~mother of a controlled substance or alcohol during pregnancy when~~
49 ~~the child, at birth, is demonstrably adversely affected by such~~
50 ~~usage; or~~

51 2. Evidence of extensive, abusive, and ~~Continued~~ chronic
52 ~~and severe~~ use of a controlled substance or alcohol by a parent
53 when the child is demonstrably adversely affected by such usage.
54

55 As used in this paragraph, the term "controlled substance" means
56 prescription drugs not prescribed for the parent or not
57 administered as prescribed and controlled substances as outlined
58 in Schedule I or Schedule II of s. 893.03.

59 Section 2. Subsection (16) is added to section 39.0121,
60 Florida Statutes, to read:

61 39.0121 Specific rulemaking authority.--Pursuant to the
62 requirements of s. 120.536, the department is specifically
63 authorized to adopt, amend, and repeal administrative rules which
64 implement or interpret law or policy, or describe the procedure
65 and practice requirements necessary to implement this chapter,
66 including, but not limited to, the following:

67 (16) Provisions for reporting, locating, recovering, and
68 stabilizing children whose whereabouts become unknown while they
69 are involved with the department and for preventing recurrences
70 of such incidents. At a minimum, the rules must:

71 (a) Provide comprehensive, explicit, and consistent
72 guidelines to be followed by the department's employees and
73 contracted providers when the whereabouts of a child involved
74 with the department is unknown.

75 (b) Include criteria to determine when a child is missing
76 for purposes of making a report to a law enforcement agency, and
77 require that in all cases in which a law enforcement agency has



498052

78 accepted a case for criminal investigation pursuant to s.
79 39.301(2) (c) and the child's whereabouts are unknown, the child
80 shall be considered missing and a report made.

81 (c) Include steps to be taken by employees and contracted
82 providers to ensure and provide evidence that parents and
83 guardians have been advised of the requirements of s. 787.04(3)
84 and that violations are reported.

85 Section 3. Subsection (1) of section 39.0138, Florida
86 Statutes, is amended to read:

87 39.0138 Criminal history records check; limit on placement
88 of a child.--

89 (1) The department shall conduct a criminal history records
90 check on ~~for~~ all persons being considered by the department ~~for~~
91 ~~approval~~ for placement of a child subject to a placement decision
92 under this chapter, including all nonrelative placement
93 decisions, all members of the household of the person being
94 considered, and frequent visitors to the household. For purposes
95 of this section, a criminal history records check may include,
96 but is not limited to, submission of fingerprints to the
97 Department of Law Enforcement for processing and forwarding to
98 the Federal Bureau of Investigation for state and national
99 criminal history information, and local criminal records checks
100 through local law enforcement agencies. A criminal history
101 records check must also include a search of the department's
102 automated abuse information system. The department shall
103 establish by rule standards for evaluating any information
104 contained in the automated system relating to a person who must
105 be screened for purposes of making a placement decision.

106 Section 4. Section 39.0141, Florida Statutes, is created to
107 read:



498052

108 39.0141 Missing children; report required.--Whenever the
109 whereabouts of a child involved with the department becomes
110 unknown, the department, the community-based care provider, or
111 the sheriff's office providing investigative services for the
112 department shall make reasonable efforts, as defined by rule, to
113 locate the child. If, pursuant to criteria established by rule,
114 the child is determined to be missing, the department, the
115 community-based care provider, or the sheriff's office shall file
116 a report that the child is missing in accordance with s. 937.021.

117 Section 5. Subsections (2), (4), and (7) of section 39.201,
118 Florida Statutes, are amended to read:

119 39.201 Mandatory reports of child abuse, abandonment, or
120 neglect; mandatory reports of death; central abuse hotline.--

121 (2) (a) Each report of known or suspected child abuse,
122 abandonment, or neglect by a parent, legal custodian, caregiver,
123 or other person responsible for the child's welfare as defined in
124 this chapter, except those solely under s. 827.04(3), and each
125 report that a child is in need of supervision and care and has no
126 parent, legal custodian, or responsible adult relative
127 immediately known and available to provide supervision and care
128 shall be made immediately to the department's central abuse
129 hotline. Such reports may be made on the single statewide toll-
130 free telephone number or via fax or web-based report. Personnel
131 at the department's central abuse hotline shall determine if the
132 report received meets the statutory definition of child abuse,
133 abandonment, or neglect. Any report meeting one of these
134 definitions shall be accepted for the protective investigation
135 pursuant to part III of this chapter.

136 (b) If the report is of an instance of known or suspected
137 child abuse by someone other than a parent, legal custodian,



498052

138 caregiver, or other person responsible for the child's welfare as
139 defined in this chapter, the report or call shall be immediately
140 electronically transferred to the appropriate county sheriff's
141 office by the central abuse hotline.

142 (c) If the report is of an instance of known or suspected
143 child abuse, abandonment, or neglect that occurred out of state
144 and the alleged perpetrator and the child alleged to be a victim
145 live out of state, the central abuse hotline shall not accept the
146 report or call for investigation, but shall transfer the
147 information on the report to the appropriate state.

148 (d) If the report is of an instance of known or suspected
149 child abuse involving impregnation of a child under 16 years of
150 age by a person 21 years of age or older solely under s.
151 827.04(3), the report shall be made immediately to the
152 appropriate county sheriff's office or other appropriate law
153 enforcement agency. If the report is of an instance of known or
154 suspected child abuse solely under s. 827.04(3), the reporting
155 provisions of this subsection do not apply to health care
156 professionals or other persons who provide medical or counseling
157 services to pregnant children when such reporting would interfere
158 with the provision of medical services.

159 (e) Reports involving known or suspected institutional
160 child abuse or neglect shall be made and received in the same
161 manner as all other reports made pursuant to this section.

162 (f) Reports involving a known or suspected juvenile sexual
163 offender or a child who has exhibited inappropriate sexual
164 behavior shall be made and received by the department.

165 1. The department shall determine the age of the alleged
166 ~~juvenile sexual~~ offender, if known.



498052

167 2. If ~~When~~ the alleged ~~juvenile sexual~~ offender is 12 years
168 of age or younger, the central abuse hotline shall immediately
169 electronically transfer the report or call to the county
170 sheriff's ~~appropriate law enforcement agency~~ office. The
171 department shall conduct an assessment and assist the family in
172 receiving appropriate services pursuant to s. 39.307, and send a
173 written report of the allegation to the appropriate county
174 sheriff's office within 48 hours after the initial report is made
175 to the central abuse hotline.

176 3. If ~~When~~ the alleged ~~juvenile sexual~~ offender is 13 years
177 of age or older, the central abuse hotline ~~department~~ shall
178 immediately electronically transfer the report or call to the
179 appropriate county sheriff's office ~~by the central abuse hotline,~~
180 and send a written report to the appropriate county sheriff's
181 office within 48 hours after the initial report to the central
182 abuse hotline.

183 (g) Reports involving abandoned newborn infants as
184 described in s. 383.50 shall be made and received by the
185 department.

186 1. If the report is of an abandoned newborn infant as
187 described in s. 383.50 and there is no indication of abuse,
188 neglect, or abandonment other than that necessarily entailed in
189 the infant having been left at a hospital, emergency medical
190 services station, or fire station, the department shall provide
191 to the caller the name of a licensed child-placing agency on a
192 rotating basis from a list of licensed child-placing agencies
193 eligible and required to accept physical custody of and to place
194 newborn infants left at a hospital, emergency medical services
195 station, or fire station. The report shall not be considered a
196 report of abuse, neglect, or abandonment solely because the



498052

197 infant has been left at a hospital, emergency medical services
198 station, or fire station pursuant to s. 383.50.

199 2. If the call, fax, or web-based report includes caller
200 ~~reports~~ indications of abuse or neglect beyond that necessarily
201 entailed in the infant having been left at a hospital, emergency
202 medical services station, or fire station, the report shall be
203 considered as a report of abuse, neglect, or abandonment and
204 shall be subject to the requirements of s. 39.395 and all other
205 relevant provisions of this chapter, notwithstanding any
206 provisions of chapter 383.

207 (h) Hotline counselors shall receive periodic training in
208 encouraging reporters to provide their names when reporting
209 abuse, abandonment, or neglect. Callers shall be advised of the
210 confidentiality provisions of s. 39.202. The department shall
211 secure and install electronic equipment that automatically
212 provides to the hotline the number from which the call or fax is
213 placed or the Internet protocol (IP) address from which the
214 report is received. This number shall be entered into the report
215 of abuse, abandonment, or neglect and become a part of the record
216 of the report, but shall enjoy the same confidentiality as
217 provided to the identity of the reporter ~~caller~~ pursuant to s.
218 39.202.

219 (i) The department shall voice-record all incoming or
220 outgoing calls that are received or placed by the central abuse
221 hotline which relate to suspected or known child abuse, neglect,
222 or abandonment. The department shall maintain an electronic copy
223 of each fax and web-based report. The recording or electronic
224 copy of each fax and web-based report shall become a part of the
225 record of the report but, notwithstanding s. 39.202, shall be
226 released in full only to law enforcement agencies and state



498052

227 attorneys for the purpose of investigating and prosecuting
228 criminal charges pursuant to s. 39.205, or to employees of the
229 department for the purpose of investigating and seeking
230 administrative penalties pursuant to s. 39.206. Nothing in this
231 paragraph shall prohibit the use of the recordings, the
232 electronic copies of faxes, and web-based reports by hotline
233 staff for quality assurance and training.

234 (4) The department shall establish and maintain a central
235 abuse hotline to receive all reports made pursuant to this
236 section in writing, via fax, via web-based reporting, or through
237 a single statewide toll-free telephone number, which any person
238 may use to report known or suspected child abuse, abandonment, or
239 neglect at any hour of the day or night, any day of the week. The
240 central abuse hotline shall be operated in such a manner as to
241 enable the department to:

242 (a) Immediately identify and locate prior reports or cases
243 of child abuse, abandonment, or neglect through utilization of
244 the department's automated tracking system.

245 (b) Monitor and evaluate the effectiveness of the
246 department's program for reporting and investigating suspected
247 abuse, abandonment, or neglect of children through the
248 development and analysis of statistical and other information.

249 (c) Track critical steps in the investigative process to
250 ensure compliance with all requirements for any report of abuse,
251 abandonment, or neglect.

252 (d) Maintain and produce aggregate statistical reports
253 monitoring patterns of child abuse, child abandonment, and child
254 neglect. The department shall collect and analyze child-on-child
255 sexual abuse reports and include the information in aggregate
256 statistical reports.



498052

257 (e) Serve as a resource for the evaluation, management, and
258 planning of preventive and remedial services for children who
259 have been subject to abuse, abandonment, or neglect.

260 (f) Initiate and enter into agreements with other states
261 for the purpose of gathering and sharing information contained in
262 reports on child maltreatment to further enhance programs for the
263 protection of children.

264 (7) On an ongoing basis, the department's quality assurance
265 program shall review calls, fax reports, and web-based reports to
266 the hotline involving three or more unaccepted reports on a
267 single child, where jurisdiction applies, in order to detect such
268 things as harassment and situations that warrant an investigation
269 because of the frequency or variety of the source of the reports.
270 The Program Director for Family Safety may refer a case for
271 investigation when it is determined, as a result of this review,
272 that an investigation may be warranted.

273

274 ===== T I T L E A M E N D M E N T =====

275 And the title is amended as follows:

276 On line(s) 1393, delete "e-mail"

277 and insert:

278

279 web-based report