

1 A bill to be entitled
2 An act relating to protection of vulnerable persons;
3 amending s. 39.201, F.S.; revising language concerning
4 child abuse reporting; requiring the Department of
5 Children and Family Services to provide for web-chat
6 and update other web-based forms for reporting child
7 abuse, abandonment, or neglect; requiring a study on
8 the use of short message format for the central abuse
9 hotline; requiring the development of a public
10 awareness campaign for the central abuse hotline;
11 requiring the collection of statistical reports on
12 child abuse and child sexual abuse on campuses of
13 colleges and universities; amending s. 39.205, F.S.;
14 increasing criminal penalties for knowingly and
15 willfully failing to report known or suspected child
16 abuse, abandonment, or neglect, or knowingly and
17 willfully preventing another person from doing so;
18 requiring specified educational institutions and their
19 law enforcement agencies to report known or suspected
20 child abuse, abandonment, or neglect in certain
21 circumstances; providing financial penalties for
22 violations; providing for challenges to findings of
23 determinations; proving for a presumption in certain
24 circumstances; creating s. 39.309, F.S.; requiring the
25 department to develop and implement a program of
26 social services and rehabilitative services for the
27 parent or legal custodian of a child seeking
28 assistance; amending s. 409.1671, F.S.; requiring

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29 | eligible lead community-based providers to have
30 | alternative response to protective investigations
31 | programs pursuant to specified provisions; creating s.
32 | 796.036, F.S.; providing for upward reclassification
33 | of certain prostitution offenses involving minors;
34 | amending s. 960.198, F.S.; providing for denial of
35 | relocation payment for a domestic violence claim if
36 | the Department of Legal Affairs has previously paid a
37 | sexual battery relocation claim to the same victim for
38 | the same incident; creating s. 960.199, F.S.;;
39 | providing for relocation assistance payments to
40 | victims of sexual battery; providing criteria for
41 | awards; providing for denial of relocation payment for
42 | a sexual battery claim if the department has
43 | previously paid a domestic violence relocation claim
44 | to the same victim for the same incident; providing an
45 | appropriation; amending s. 1012.98, F.S.; providing a
46 | continuing education requirement for certain teachers
47 | on identifying and reporting child abuse and neglect;
48 | providing an effective date.

49 |
50 | Be It Enacted by the Legislature of the State of Florida:

51 |
52 | Section 1. Paragraph (a) of subsection (1) and subsections
53 | (2) and (4) of section 39.201, Florida Statutes, are amended to
54 | read:

55 | 39.201 Mandatory reports of child abuse, abandonment, or
56 | neglect; mandatory reports of death; central abuse hotline.—

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57 (1) (a) Any person who knows, or has reasonable cause to
58 suspect, that a child is physically or emotionally abused,
59 abandoned, or neglected by an adult person, or sexually abused
60 by any person ~~a parent, legal custodian, caregiver, or other~~
61 ~~person responsible for the child's welfare, as defined in this~~
62 ~~chapter,~~ or that a child is in need of supervision and care and
63 has no parent, legal custodian, or responsible adult relative
64 immediately known and available to provide supervision and care
65 shall report such knowledge or suspicion to the department in
66 the manner prescribed in subsection (2).

67 (2) (a) Each report of known or suspected child abuse,
68 abandonment, or neglect by an adult person, or of sexual abuse
69 by any person ~~a parent, legal custodian, caregiver, or other~~
70 ~~person responsible for the child's welfare as defined in this~~
71 ~~chapter,~~ except those solely under s. 827.04(3), and each report
72 that a child is in need of supervision and care and has no
73 parent, legal custodian, or responsible adult relative
74 immediately known and available to provide supervision and care
75 shall be made immediately to the department's central abuse
76 hotline. Such reports may be made on the single statewide toll-
77 free telephone number or via fax, web-based chat, or web-based
78 report. Personnel at the department's central abuse hotline
79 shall determine if the report received meets the statutory
80 definition of child abuse, abandonment, or neglect. Any report
81 meeting one of these definitions shall be accepted for the
82 protective investigation pursuant to part III of this chapter.
83 Any report of child abuse, abandonment, or neglect by a person
84 other than the child's caregiver, as defined in s. 39.01, shall

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85 be taken by the central abuse hotline and forwarded to the
86 appropriate county sheriff's office pursuant to paragraph (b).

87 (b) If the report is of an instance of known or suspected
88 child abuse by someone other than a parent, legal custodian,
89 caregiver, or other person responsible for the child's welfare
90 as defined in this chapter, the report or call shall be
91 immediately electronically transferred to the appropriate county
92 sheriff's office by the central abuse hotline.

93 (c) If the report is of an instance of known or suspected
94 child abuse, abandonment, or neglect that occurred out of state
95 and the alleged perpetrator and the child alleged to be a victim
96 live out of state, the central abuse hotline shall not accept
97 the report or call for investigation, but shall transfer the
98 information on the report to the appropriate state.

99 (d) If the report is of an instance of known or suspected
100 child abuse involving impregnation of a child under 16 years of
101 age by a person 21 years of age or older solely under s.
102 827.04(3), the report shall be made immediately to the
103 appropriate county sheriff's office or other appropriate law
104 enforcement agency. If the report is of an instance of known or
105 suspected child abuse solely under s. 827.04(3), the reporting
106 provisions of this subsection do not apply to health care
107 professionals or other persons who provide medical or counseling
108 services to pregnant children when such reporting would
109 interfere with the provision of medical services.

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

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

116 1. The department shall determine the age of the alleged
117 offender, if known.

118 2. If the alleged offender is 12 years of age or younger,
119 the central abuse hotline shall immediately electronically
120 transfer the report or call to the county sheriff's office. The
121 department shall conduct an assessment and assist the family in
122 receiving appropriate services pursuant to s. 39.307, and send a
123 written report of the allegation to the appropriate county
124 sheriff's office within 48 hours after the initial report is
125 made to the central abuse hotline.

126 3. If the alleged offender is 13 years of age or older,
127 the central abuse hotline shall immediately electronically
128 transfer the report or call to the appropriate county sheriff's
129 office and send a written report to the appropriate county
130 sheriff's office within 48 hours after the initial report to the
131 central abuse hotline.

132 (g) Reports involving surrendered newborn infants as
133 described in s. 383.50 shall be made and received by the
134 department.

135 1. If the report is of a surrendered newborn infant as
136 described in s. 383.50 and there is no indication of abuse,
137 neglect, or abandonment other than that necessarily entailed in
138 the infant having been left at a hospital, emergency medical
139 services station, or fire station, the department shall provide
140 to the caller the name of a licensed child-placing agency on a

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141 rotating basis from a list of licensed child-placing agencies
142 eligible and required to accept physical custody of and to place
143 newborn infants left at a hospital, emergency medical services
144 station, or fire station. The report shall not be considered a
145 report of abuse, neglect, or abandonment solely because the
146 infant has been left at a hospital, emergency medical services
147 station, or fire station pursuant to s. 383.50.

148 2. If the call, fax, web-based chat, or web-based report
149 includes indications of abuse or neglect beyond that necessarily
150 entailed in the infant having been left at a hospital, emergency
151 medical services station, or fire station, the report shall be
152 considered as a report of abuse, neglect, or abandonment and
153 shall be subject to the requirements of s. 39.395 and all other
154 relevant provisions of this chapter, notwithstanding any
155 provisions of chapter 383.

156 (h) Hotline counselors shall receive periodic training in
157 encouraging reporters to provide their names when reporting
158 abuse, abandonment, or neglect. Callers shall be advised of the
159 confidentiality provisions of s. 39.202. The department shall
160 secure and install electronic equipment that automatically
161 provides to the hotline the number from which the call or fax is
162 placed or the Internet protocol (IP) address from which the
163 report is received. This number shall be entered into the report
164 of abuse, abandonment, or neglect and become a part of the
165 record of the report, but shall enjoy the same confidentiality
166 as provided to the identity of the reporter pursuant to s.
167 39.202.

168 (i) The department shall voice-record all incoming or

169 outgoing calls that are received or placed by the central abuse
170 hotline which relate to suspected or known child abuse, neglect,
171 or abandonment. The department shall maintain an electronic copy
172 of each fax and web-based report. The recording or electronic
173 copy of each fax and web-based report shall become a part of the
174 record of the report but, notwithstanding s. 39.202, shall be
175 released in full only to law enforcement agencies and state
176 attorneys for the purpose of investigating and prosecuting
177 criminal charges pursuant to s. 39.205, or to employees of the
178 department for the purpose of investigating and seeking
179 administrative penalties pursuant to s. 39.206. Nothing in this
180 paragraph shall prohibit the use of the recordings, the
181 electronic copies of faxes, and web-based reports by hotline
182 staff for quality assurance and training.

183 (j)1. The department shall update the web form used for
184 reporting child abuse, abandonment, or neglect to:

185 a. Include qualifying questions in order to obtain
186 necessary information required to assess need and a response.

187 b. Indicate which fields are required to submit the
188 report.

189 c. Allow a reporter to save his or her report and return
190 to it a later time.

191 2. The report shall be made available to the counselors in
192 its entirety as needed to update the Florida Safe Families
193 Network or other similar systems.

194 (k) The department shall conduct a study to determine the
195 feasibility of using text and short message service formats to
196 receive and process reports of child abuse, abandonment, or

197 | neglect to the central abuse hotline.

198 | (4) The department shall establish and maintain a central
 199 | abuse hotline to receive all reports made pursuant to this
 200 | section in writing, via fax, via web-based reporting, via web-
 201 | based chat, or through a single statewide toll-free telephone
 202 | number, which any person may use to report known or suspected
 203 | child abuse, abandonment, or neglect at any hour of the day or
 204 | night, any day of the week. The department shall promote public
 205 | awareness of the central abuse hotline through community-based
 206 | partner organizations and public service campaigns. The central
 207 | abuse hotline shall be operated in such a manner as to enable
 208 | the department to:

209 | (a) Immediately identify and locate prior reports or cases
 210 | of child abuse, abandonment, or neglect through utilization of
 211 | the department's automated tracking system.

212 | (b) Monitor and evaluate the effectiveness of the
 213 | department's program for reporting and investigating suspected
 214 | abuse, abandonment, or neglect of children through the
 215 | development and analysis of statistical and other information.

216 | (c) Track critical steps in the investigative process to
 217 | ensure compliance with all requirements for any report of abuse,
 218 | abandonment, or neglect.

219 | (d) Maintain and produce aggregate statistical reports
 220 | monitoring patterns of child abuse, child abandonment, and child
 221 | neglect. The department shall collect and analyze child-on-child
 222 | sexual abuse reports and include the information in aggregate
 223 | statistical reports. The department shall collect and analyze,
 224 | in separate statistical reports, those reports of child abuse

225 and sexual abuse which are reported from or occurred on the
 226 campus of any Florida College System institution, state
 227 university, or nonpublic college, university, or school, as
 228 defined in s. 1000.21 or s. 1005.02.

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

232 (f) Initiate and enter into agreements with other states
 233 for the purpose of gathering and sharing information contained
 234 in reports on child maltreatment to further enhance programs for
 235 the protection of children.

236 Section 2. Subsections (3) through (6) of section 39.205,
 237 Florida Statutes, are renumbered as subsections (6) through (9),
 238 respectively, new subsections (3), (4), and (5) are added to
 239 that section, and subsection (1) of that section is amended, to
 240 read:

241 39.205 Penalties relating to reporting of child abuse,
 242 abandonment, or neglect.—

243 (1) A person who is required to report known or suspected
 244 child abuse, abandonment, or neglect and who knowingly and
 245 willfully fails to do so, or who knowingly and willfully
 246 prevents another person from doing so, commits ~~is guilty of a~~
 247 felony misdemeanor of the third ~~first~~ degree, punishable as
 248 provided in s. 775.082, ~~or~~ s. 775.083, or s. 775.084. A judge
 249 subject to discipline pursuant to s. 12, Art. V of the Florida
 250 Constitution shall not be subject to criminal prosecution when
 251 the information was received in the course of official duties.

252 (3) Any Florida College System institution, state

253 university, or nonpublic college, university, or school, as
 254 defined in s. 1000.21 or s. 1005.02, whose administrators
 255 knowingly and willfully, upon receiving information from
 256 faculty, staff, or other institution employees, fail to report
 257 known or suspected child abuse, abandonment, or neglect
 258 committed on the property of the institution, university,
 259 college, or school, or during an event or function sponsored by
 260 the institution, university, college, or school, or who
 261 knowingly and willfully prevent another person from doing so,
 262 shall be subject to fines by the Board of Governors of \$1
 263 million for each such failure.

264 (4) Any Florida College System institution, state
 265 university, or nonpublic college, university, or school, as
 266 defined in s. 1000.21 or s. 1005.02, whose law enforcement
 267 agency fails to report known or suspected child abuse,
 268 abandonment, or neglect committed on the property of the
 269 institution, university, college, or school, or during an event
 270 or function sponsored by the institution, university, college,
 271 or school, shall be subject to fines imposed by the Board of
 272 Governors of \$1 million for each such failure.

273 (5) Any Florida College System institution, state
 274 university, or nonpublic college, university or school, as
 275 defined in s. 1000.21 or s. 1005.02, shall have the right to
 276 challenge the Board of Governor's determination that the
 277 institution acted knowingly and willfully under subsection (3)
 278 or subsection (4) in an administrative hearing pursuant to s.
 279 120.57; however, if it is found that actual knowledge and
 280 information of known or suspected child abuse was in fact

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281 received by the institution's administrators and was not
282 reported, a presumption of a knowing and willful act will be
283 established.

284 Section 3. Section 39.309, Florida Statutes, is created to
285 read:

286 39.309 Alternative response to protective investigation.-
287 The department shall, in order to implement an alternative
288 response to protective investigations program:

289 (1) Develop and implement a program of social services and
290 other supportive and rehabilitative services to be made
291 available to the parent or legal custodian of a child seeking
292 assistance pursuant to s. 39.201(2)(a). The social services and
293 other supportive and rehabilitative services shall promote the
294 child's physical, mental, and emotional health; provide a safe,
295 stable living environment; promote family autonomy; and
296 strengthen family life, whenever possible.

297 (2) Ensure that such services are targeted to prevent or
298 mitigate the possibility of a child being referred to the
299 hotline as an alleged victim of abuse, neglect, or abandonment,
300 or to reduce the incidents of abuse.

301 (3) Coordinate with community-based care lead agencies
302 pursuant to s. 409.1671 or other agencies.

303 Section 4. Paragraph (e) of subsection (1) of section
304 409.1671, Florida Statutes, is amended to read:

305 409.1671 Foster care and related services; outsourcing.-

306 (1)

307 (e) As used in this section, the term "eligible lead
308 community-based provider" means a single agency with which the

309 department shall contract for the provision of child protective
310 services in a community that is no smaller than a county. The
311 secretary of the department may authorize more than one eligible
312 lead community-based provider within a single county when to do
313 so will result in more effective delivery of foster care and
314 related services. To compete for an outsourcing project, such
315 agency must have:

316 1. The ability to coordinate, integrate, and manage all
317 child protective services in the designated community in
318 cooperation with child protective investigations.

319 2. The ability to ensure continuity of care from entry to
320 exit for all children referred from the protective investigation
321 and court systems.

322 3. The ability to provide directly, or contract for
323 through a local network of providers, all necessary child
324 protective services. Such agencies should directly provide no
325 more than 35 percent of all child protective services provided.

326 4. The willingness to accept accountability for meeting
327 the outcomes and performance standards related to child
328 protective services established by the Legislature and the
329 Federal Government.

330 5. The capability and the willingness to serve all
331 children referred to it from the protective investigation and
332 court systems, regardless of the level of funding allocated to
333 the community by the state, provided all related funding is
334 transferred.

335 6. The willingness to ensure that each individual who
336 provides child protective services completes the training

337 required of child protective service workers by the Department
 338 of Children and Family Services.

339 7. The ability to maintain eligibility to receive all
 340 federal child welfare funds, including Title IV-E and IV-A
 341 funds, currently being used by the Department of Children and
 342 Family Services.

343 8. Written agreements with Healthy Families Florida lead
 344 entities in their community, pursuant to s. 409.153, to promote
 345 cooperative planning for the provision of prevention and
 346 intervention services.

347 9. A board of directors, of which at least 51 percent of
 348 the membership is comprised of persons residing in this state.
 349 Of the state residents, at least 51 percent must also reside
 350 within the service area of the lead community-based provider.

351 10. An alternative response to protective investigations
 352 program pursuant to 39.309.

353 Section 5. Section 796.036, Florida Statutes, is created
 354 to read:

355 796.036 Violations involving minors; reclassification.-

356 (1) The felony or misdemeanor degree of any violation of
 357 this chapter, other than s. 796.03 or s. 796.035, in which a
 358 minor engages in prostitution, lewdness, assignation, sexual
 359 conduct, or other conduct as defined in or prohibited by this
 360 chapter, but the minor is not the person charged with the
 361 violation, is reclassified as provided in this section.

362 (2) Offenses shall be reclassified as follows:

363 (a) A misdemeanor of the second degree is reclassified to
 364 a misdemeanor of the first degree.

365 (b) A misdemeanor of the first degree is reclassified to a
 366 felony of the third degree.

367 (c) A felony of the third degree is reclassified to a
 368 felony of the second degree.

369 (d) A felony of the second degree is reclassified to a
 370 felony of the first degree.

371 (e) A felony of the first degree is reclassified to a life
 372 felony.

373 Section 6. Subsection (3) is added to section 960.198,
 374 Florida Statutes, to read:

375 960.198 Relocation assistance for victims of domestic
 376 violence.—

377 (3) Relocation payments for a domestic violence claim
 378 shall be denied if the department has previously approved or
 379 paid out a sexual battery relocation claim under s. 960.199 to
 380 the same victim regarding the same incident.

381 Section 7. Section 960.199, Florida Statutes, is created
 382 to read:

383 960.199 Relocation assistance for victims of sexual
 384 battery.—

385 (1) The department may award a one-time payment of up to
 386 \$1,500 on any one claim and a lifetime maximum of \$3,000 to a
 387 victim of sexual battery as defined in s. 794.011 who needs
 388 relocation assistance.

389 (2) In order for an award to be granted to a victim for
 390 relocation assistance:

391 (a) There must be proof that a sexual battery offense was
 392 committed.

393 (b) The sexual battery offense must be reported to the
 394 proper authorities.

395 (c) The victim's need for assistance must be certified by
 396 a certified rape crisis center in this state.

397 (d) The center certification must assert that the victim
 398 is cooperating with law enforcement officials, if applicable,
 399 and must include documentation that the victim has developed a
 400 safety plan.

401 (e) The act of sexual battery must be committed in the
 402 victim's place of residence or in a location that would lead the
 403 victim to reasonably fear for his or her continued safety in the
 404 place of residence.

405 (3) Relocation payments for a sexual battery claim shall
 406 be denied if the department has previously approved or paid out
 407 a domestic violence relocation claim under s. 960.198 to the
 408 same victim regarding the same incident.

409 Section 8. For the 2012-2013 state fiscal year, the sum of
 410 \$1.5 million in nonrecurring funds is appropriated from the
 411 General Revenue Fund to the Department of Legal Affairs, Office
 412 of the Attorney General, for the relocation of victims of sexual
 413 battery as provided in s. 960.199, Florida Statutes, as created
 414 by this act.

415 Section 9. Subsection (12) is added to section 1012.98,
 416 Florida Statutes, to read:

417 1012.98 School Community Professional Development Act.—

418 (12) The department shall require teachers in grades 1-12
 419 to participate in continuing education training provided by the
 420 Department of Children and Family Services on identifying and

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421 | reporting child abuse and neglect.

422 | Section 10. This act shall take effect October 1, 2012.