

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

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 appropriation; authorizing a specified
49 | numbers of full-time equivalent positions with
50 | associated salary rates within the Department of
51 | Children and Family Services; providing an effective
52 | date.

53 |
54 | Be It Enacted by the Legislature of the State of Florida:

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56 | Section 1. Paragraph (a) of subsection (1) and subsections

57 (2) and (4) of section 39.201, Florida Statutes, are amended to
 58 read:

59 39.201 Mandatory reports of child abuse, abandonment, or
 60 neglect; mandatory reports of death; central abuse hotline.—

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

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

85 meeting one of these definitions shall be accepted for the
86 protective investigation pursuant to part III of this chapter.
87 Any report of child abuse, abandonment, or neglect by a person
88 other than the child's caregiver, as defined in s. 39.01, shall
89 be taken by the central abuse hotline and forwarded to the
90 appropriate county sheriff's office pursuant to paragraph (b).

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

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

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

113 interfere with the provision of medical services.

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

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

120 1. The department shall determine the age of the alleged
121 offender, if known.

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

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

136 (g) Reports involving surrendered newborn infants as
137 described in s. 383.50 shall be made and received by the
138 department.

139 1. If the report is of a surrendered newborn infant as
140 described in s. 383.50 and there is no indication of abuse,

141 neglect, or abandonment other than that necessarily entailed in
142 the infant having been left at a hospital, emergency medical
143 services station, or fire station, the department shall provide
144 to the caller the name of a licensed child-placing agency on a
145 rotating basis from a list of licensed child-placing agencies
146 eligible and required to accept physical custody of and to place
147 newborn infants left at a hospital, emergency medical services
148 station, or fire station. The report shall not be considered a
149 report of abuse, neglect, or abandonment solely because the
150 infant has been left at a hospital, emergency medical services
151 station, or fire station pursuant to s. 383.50.

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

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

169 record of the report, but shall enjoy the same confidentiality
170 as provided to the identity of the reporter pursuant to s.
171 39.202.

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

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

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

191 b. Indicate which fields are required to submit the
192 report.

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

195 2. The report shall be made available to the counselors in
196 its entirety as needed to update the Florida Safe Families

197 Network or other similar systems.

198 (k) The department shall conduct a study to determine the
199 feasibility of using text and short message service formats to
200 receive and process reports of child abuse, abandonment, or
201 neglect to the central abuse hotline.

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

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

216 (b) Monitor and evaluate the effectiveness of the
217 department's program for reporting and investigating suspected
218 abuse, abandonment, or neglect of children through the
219 development and analysis of statistical and other information.

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

223 (d) Maintain and produce aggregate statistical reports
224 monitoring patterns of child abuse, child abandonment, and child

225 neglect. The department shall collect and analyze child-on-child
 226 sexual abuse reports and include the information in aggregate
 227 statistical reports. The department shall collect and analyze,
 228 in separate statistical reports, those reports of child abuse
 229 and sexual abuse which are reported from or occurred on the
 230 campus of any Florida College System institution, state
 231 university, or nonpublic college, university, or school, as
 232 defined in s. 1000.21 or s. 1005.02.

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

236 (f) Initiate and enter into agreements with other states
 237 for the purpose of gathering and sharing information contained
 238 in reports on child maltreatment to further enhance programs for
 239 the protection of children.

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

245 39.205 Penalties relating to reporting of child abuse,
 246 abandonment, or neglect.—

247 (1) A person who is required to report known or suspected
 248 child abuse, abandonment, or neglect and who knowingly and
 249 willfully fails to do so, or who knowingly and willfully
 250 prevents another person from doing so, commits ~~is guilty of a~~
 251 felony misdemeanor of the third ~~first~~ degree, punishable as
 252 provided in s. 775.082, ~~or~~ s. 775.083, or s. 775.084. A judge

253 subject to discipline pursuant to s. 12, Art. V of the Florida
254 Constitution shall not be subject to criminal prosecution when
255 the information was received in the course of official duties.

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

267 (a) A Florida College System institution subject to a fine
268 shall be assessed by the State Board of Education.

269 (b) A state university subject to a fine shall be assessed
270 by the Board of Governors.

271 (c) A nonpublic college, university, or school subject to
272 a fine shall be assessed by the Commission for Independent
273 Education.

274 (4) Any Florida College System institution, state
275 university, or nonpublic college, university, or school, as
276 defined in s. 1000.21 or s. 1005.02, whose law enforcement
277 agency fails to report known or suspected child abuse,
278 abandonment, or neglect committed on the property of the
279 university, college, or school, or during an event or function
280 sponsored by the university, college, or school, shall be

281 subject to fines of \$1 million for each such failure assessed in
282 the same manner as subsection (3).

283 (5) Any Florida College System institution, state
284 university, or nonpublic college, university or school, as
285 defined in s. 1000.21 or s. 1005.02, shall have the right to
286 challenge the determination that the institution acted knowingly
287 and willfully under subsection (3) or subsection (4) in an
288 administrative hearing pursuant to s. 120.57; however, if it is
289 found that actual knowledge and information of known or
290 suspected child abuse was in fact received by the institution's
291 administrators and was not reported, a presumption of a knowing
292 and willful act will be established.

293 Section 3. Section 39.309, Florida Statutes, is created to
294 read:

295 39.309 Alternative response to protective investigation.-
296 The department shall, in order to implement an alternative
297 response to protective investigations program:

298 (1) Develop and implement a program of social services and
299 other supportive and rehabilitative services to be made
300 available to the parent or legal custodian of a child seeking
301 assistance pursuant to s. 39.201(2)(a). The social services and
302 other supportive and rehabilitative services shall promote the
303 child's physical, mental, and emotional health; provide a safe,
304 stable living environment; promote family autonomy; and
305 strengthen family life, whenever possible.

306 (2) Ensure that such services are targeted to prevent or
307 mitigate the possibility of a child being referred to the
308 hotline as an alleged victim of abuse, neglect, or abandonment,

309 or to reduce the incidents of abuse.

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

312 Section 4. Paragraph (e) of subsection (1) of section
313 409.1671, Florida Statutes, is amended to read:

314 409.1671 Foster care and related services; outsourcing.-

315 (1)

316 (e) As used in this section, the term "eligible lead
317 community-based provider" means a single agency with which the
318 department shall contract for the provision of child protective
319 services in a community that is no smaller than a county. The
320 secretary of the department may authorize more than one eligible
321 lead community-based provider within a single county when to do
322 so will result in more effective delivery of foster care and
323 related services. To compete for an outsourcing project, such
324 agency must have:

325 1. The ability to coordinate, integrate, and manage all
326 child protective services in the designated community in
327 cooperation with child protective investigations.

328 2. The ability to ensure continuity of care from entry to
329 exit for all children referred from the protective investigation
330 and court systems.

331 3. The ability to provide directly, or contract for
332 through a local network of providers, all necessary child
333 protective services. Such agencies should directly provide no
334 more than 35 percent of all child protective services provided.

335 4. The willingness to accept accountability for meeting
336 the outcomes and performance standards related to child

337 protective services established by the Legislature and the
338 Federal Government.

339 5. The capability and the willingness to serve all
340 children referred to it from the protective investigation and
341 court systems, regardless of the level of funding allocated to
342 the community by the state, provided all related funding is
343 transferred.

344 6. The willingness to ensure that each individual who
345 provides child protective services completes the training
346 required of child protective service workers by the Department
347 of Children and Family Services.

348 7. The ability to maintain eligibility to receive all
349 federal child welfare funds, including Title IV-E and IV-A
350 funds, currently being used by the Department of Children and
351 Family Services.

352 8. Written agreements with Healthy Families Florida lead
353 entities in their community, pursuant to s. 409.153, to promote
354 cooperative planning for the provision of prevention and
355 intervention services.

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

360 10. An alternative response to protective investigations
361 program pursuant to s. 39.309.

362 Section 5. Section 796.036, Florida Statutes, is created
363 to read:

364 796.036 Violations involving minors; reclassification.—

365 (1) The felony or misdemeanor degree of any violation of
366 this chapter, other than s. 796.03 or s. 796.035, in which a
367 minor engages in prostitution, lewdness, assignation, sexual
368 conduct, or other conduct as defined in or prohibited by this
369 chapter, but the minor is not the person charged with the
370 violation, is reclassified as provided in this section.

371 (2) Offenses shall be reclassified as follows:

372 (a) A misdemeanor of the second degree is reclassified to
373 a misdemeanor of the first degree.

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

376 (c) A felony of the third degree is reclassified to a
377 felony of the second degree.

378 (d) A felony of the second degree is reclassified to a
379 felony of the first degree.

380 (e) A felony of the first degree is reclassified to a life
381 felony.

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

384 960.198 Relocation assistance for victims of domestic
385 violence.—

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

390 Section 7. Section 960.199, Florida Statutes, is created
391 to read:

392 960.199 Relocation assistance for victims of sexual

CS/CS/CS/HB 1355

2012

393 battery.—

394 (1) The department may award a one-time payment of up to
395 \$1,500 on any one claim and a lifetime maximum of \$3,000 to a
396 victim of sexual battery as defined in s. 794.011 who needs
397 relocation assistance.

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

400 (a) There must be proof that a sexual battery offense was
401 committed.

402 (b) The sexual battery offense must be reported to the
403 proper authorities.

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

406 (d) The center certification must assert that the victim
407 is cooperating with law enforcement officials, if applicable,
408 and must include documentation that the victim has developed a
409 safety plan.

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

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

418 Section 8. For the 2012-2013 state fiscal year, the sum of
419 \$1.5 million in nonrecurring funds is appropriated from the
420 General Revenue Fund to the Department of Legal Affairs, Office

CS/CS/CS/HB 1355

2012

421 of the Attorney General, for the relocation of victims of sexual
422 battery as provided in s. 960.199, Florida Statutes, as created
423 by this act.

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

426 1012.98 School Community Professional Development Act.—

427 (12) The department shall require teachers in grades 1-12
428 to participate in continuing education training provided by the
429 Department of Children and Family Services on identifying and
430 reporting child abuse and neglect.

431 Section 10. For fiscal year 2012-2013, 47 full-time
432 equivalent positions, with associated salary rate of 1,513,326
433 are authorized and the sums of \$2,164,016 in recurring funds and
434 \$281,000 in nonrecurring funds are appropriated from the General
435 Revenue Fund to the Department of Children and Family Services
436 for additional costs associated with the changes in mandatory
437 reporting of child abuse, abandonment, or neglect pursuant to s.
438 39.201, Florida Statutes.

439 Section 11. This act shall take effect October 1, 2012.