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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/02/2012	.	
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The Committee on Budget Subcommittee on Criminal and Civil Justice Appropriations (Bennett) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause and insert:

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

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

(1) (a) Any person who knows, or has reasonable cause to suspect, that a child is physically or emotionally abused, abandoned, or neglected by an adult person, or sexually abused



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13 ~~by any person a parent, legal custodian, caregiver, or other~~
14 ~~person responsible for the child's welfare, as defined in this~~
15 ~~chapter,~~ or that a child is in need of supervision and care and
16 has no parent, legal custodian, or responsible adult relative
17 immediately known and available to provide supervision and care
18 shall report such knowledge or suspicion to the department in
19 the manner prescribed in subsection (2).

20 (2) (a) Each report of known or suspected child abuse,
21 abandonment, or neglect by an adult person, or of sexual abuse
22 by any person a parent, legal custodian, caregiver, or other
23 person responsible for the child's welfare as defined in this
24 ~~chapter,~~ except those solely under s. 827.04(3), and each report
25 that a child is in need of supervision and care and has no
26 parent, legal custodian, or responsible adult relative
27 immediately known and available to provide supervision and care
28 shall be made immediately to the department's central abuse
29 hotline. Such reports may be made on the single statewide toll-
30 free telephone number or via fax, web-based chat, or web-based
31 report. Personnel at the department's central abuse hotline
32 shall determine if the report received meets the statutory
33 definition of child abuse, abandonment, or neglect. Any report
34 meeting one of these definitions shall be accepted for the
35 protective investigation pursuant to part III of this chapter.
36 Any report of child abuse, abandonment, or neglect by a person
37 other than the child's caregiver, as defined in s. 39.01, shall
38 be taken by the central abuse hotline and forwarded to the
39 appropriate county sheriff's office pursuant to paragraph (b).

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



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

46 (c) If the report is of an instance of known or suspected
47 child abuse, abandonment, or neglect that occurred out of state
48 and the alleged perpetrator and the child alleged to be a victim
49 live out of state, the central abuse hotline shall not accept
50 the report or call for investigation, but shall transfer the
51 information on the report to the appropriate state.

52 (d) If the report is of an instance of known or suspected
53 child abuse involving impregnation of a child under 16 years of
54 age by a person 21 years of age or older solely under s.
55 827.04(3), the report shall be made immediately to the
56 appropriate county sheriff's office or other appropriate law
57 enforcement agency. If the report is of an instance of known or
58 suspected child abuse solely under s. 827.04(3), the reporting
59 provisions of this subsection do not apply to health care
60 professionals or other persons who provide medical or counseling
61 services to pregnant children when such reporting would
62 interfere with the provision of medical services.

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

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

69 1. The department shall determine the age of the alleged
70 offender, if known.



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71 2. If the alleged offender is 12 years of age or younger,
72 the central abuse hotline shall immediately electronically
73 transfer the report or call to the county sheriff's office. The
74 department shall conduct an assessment and assist the family in
75 receiving appropriate services pursuant to s. 39.307, and send a
76 written report of the allegation to the appropriate county
77 sheriff's office within 48 hours after the initial report is
78 made to the central abuse hotline.

79 3. If the alleged offender is 13 years of age or older, the
80 central abuse hotline shall immediately electronically transfer
81 the report or call to the appropriate county sheriff's office
82 and send a written report to the appropriate county sheriff's
83 office within 48 hours after the initial report to the central
84 abuse hotline.

85 (g) Reports involving surrendered newborn infants as
86 described in s. 383.50 shall be made and received by the
87 department.

88 1. If the report is of a surrendered newborn infant as
89 described in s. 383.50 and there is no indication of abuse,
90 neglect, or abandonment other than that necessarily entailed in
91 the infant having been left at a hospital, emergency medical
92 services station, or fire station, the department shall provide
93 to the caller the name of a licensed child-placing agency on a
94 rotating basis from a list of licensed child-placing agencies
95 eligible and required to accept physical custody of and to place
96 newborn infants left at a hospital, emergency medical services
97 station, or fire station. The report shall not be considered a
98 report of abuse, neglect, or abandonment solely because the
99 infant has been left at a hospital, emergency medical services



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100 station, or fire station pursuant to s. 383.50.

101 2. If the call, fax, web-based chat, or web-based report
102 includes indications of abuse or neglect beyond that necessarily
103 entailed in the infant having been left at a hospital, emergency
104 medical services station, or fire station, the report shall be
105 considered as a report of abuse, neglect, or abandonment and
106 shall be subject to the requirements of s. 39.395 and all other
107 relevant provisions of this chapter, notwithstanding any
108 provisions of chapter 383.

109 (h) Hotline counselors shall receive periodic training in
110 encouraging reporters to provide their names when reporting
111 abuse, abandonment, or neglect. Callers shall be advised of the
112 confidentiality provisions of s. 39.202. The department shall
113 secure and install electronic equipment that automatically
114 provides to the hotline the number from which the call or fax is
115 placed or the Internet protocol (IP) address from which the
116 report is received. This number shall be entered into the report
117 of abuse, abandonment, or neglect and become a part of the
118 record of the report, but shall enjoy the same confidentiality
119 as provided to the identity of the reporter pursuant to s.
120 39.202.

121 (i) The department shall voice-record all incoming or
122 outgoing calls that are received or placed by the central abuse
123 hotline which relate to suspected or known child abuse, neglect,
124 or abandonment. The department shall maintain an electronic copy
125 of each fax and web-based report. The recording or electronic
126 copy of each fax and web-based report shall become a part of the
127 record of the report but, notwithstanding s. 39.202, shall be
128 released in full only to law enforcement agencies and state



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129 attorneys for the purpose of investigating and prosecuting
130 criminal charges pursuant to s. 39.205, or to employees of the
131 department for the purpose of investigating and seeking
132 administrative penalties pursuant to s. 39.206. Nothing in this
133 paragraph shall prohibit the use of the recordings, the
134 electronic copies of faxes, and web-based reports by hotline
135 staff for quality assurance and training.

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

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

140 b. Indicate which fields are required to submit the report.

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

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

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

150 (4) The department shall establish and maintain a central
151 abuse hotline to receive all reports made pursuant to this
152 section in writing, via fax, via web-based reporting, via web-
153 based chat, or through a single statewide toll-free telephone
154 number, which any person may use to report known or suspected
155 child abuse, abandonment, or neglect at any hour of the day or
156 night, any day of the week. The department shall promote public
157 awareness of the central abuse hotline through community-based



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158 partner organizations and public service campaigns. The central
159 abuse hotline shall be operated in such a manner as to enable
160 the department to:

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

164 (b) Monitor and evaluate the effectiveness of the
165 department's program for reporting and investigating suspected
166 abuse, abandonment, or neglect of children through the
167 development and analysis of statistical and other information.

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

171 (d) Maintain and produce aggregate statistical reports
172 monitoring patterns of child abuse, child abandonment, and child
173 neglect. The department shall collect and analyze child-on-child
174 sexual abuse reports and include the information in aggregate
175 statistical reports. The department shall collect and analyze,
176 in separate statistical reports, those reports of child abuse
177 and sexual abuse which are reported from or occurred on the
178 campus of any Florida College System institution, state
179 university, or nonpublic college, university, or school, as
180 defined in s. 1000.21 or s. 1005.02.

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

184 (f) Initiate and enter into agreements with other states
185 for the purpose of gathering and sharing information contained
186 in reports on child maltreatment to further enhance programs for



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187 the protection of children.

188 Section 2. Subsections (3) through (6) of section 39.205,
189 Florida Statutes, are renumbered as subsections (6) through (9),
190 respectively, new subsections (3), (4), and (5) are added to
191 that section, and subsection (1) of that section is amended, to
192 read:

193 39.205 Penalties relating to reporting of child abuse,
194 abandonment, or neglect.—

195 (1) A person who is required to report known or suspected
196 child abuse, abandonment, or neglect and who knowingly and
197 willfully fails to do so, or who knowingly and willfully
198 prevents another person from doing so, commits ~~is guilty of a~~
199 felony misdemeanor of the third ~~first~~ degree, punishable as
200 provided in s. 775.082, ~~or~~ s. 775.083, or s. 775.084. A judge
201 subject to discipline pursuant to s. 12, Art. V of the Florida
202 Constitution shall not be subject to criminal prosecution when
203 the information was received in the course of official duties.

204 (3) Any Florida College System institution, state
205 university, or nonpublic college, university, or school, as
206 defined in s. 1000.21 or s. 1005.02, whose administrators
207 knowingly and willfully, upon receiving information from
208 faculty, staff, or other institution employees, fail to report
209 known or suspected child abuse, abandonment, or neglect
210 committed on the property of the institution, university,
211 college, or school, or during an event or function sponsored by
212 the institution, university, college, or school, or who
213 knowingly and willfully prevent another person from doing so,
214 shall be subject to fines by the Board of Governors of \$1
215 million for each such failure. Any fine collected under this



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216 subsection shall be deposited in the Rape Crisis Program Trust
217 Fund.

218 (4) Any Florida College System institution, state
219 university, or nonpublic college, university, or school, as
220 defined in s. 1000.21 or s. 1005.02, whose law enforcement
221 agency fails to report known or suspected child abuse,
222 abandonment, or neglect committed on the property of the
223 institution, university, college, or school, or during an event
224 or function sponsored by the institution, university, college,
225 or school, shall be subject to fines imposed by the Board of
226 Governors of \$1 million for each such failure. Any fine
227 collected under this subsection shall be deposited in the Rape
228 Crisis Program Trust Fund.

229 (5) Any Florida College System institution, state
230 university, or nonpublic college, university or school, as
231 defined in s. 1000.21 or s. 1005.02, shall have the right to
232 challenge the Board of Governor's determination that the
233 institution acted knowingly and willfully under subsection (3)
234 or subsection (4) in an administrative hearing pursuant to s.
235 120.57; however, if it is found that actual knowledge and
236 information of known or suspected child abuse was in fact
237 received by the institution's administrators and was not
238 reported, a presumption of a knowing and willful act will be
239 established.

240 Section 3. Section 39.309, Florida Statutes, is created to
241 read:

242 39.309 Alternative response to protective investigation.—
243 The department shall, in order to implement an alternative
244 response to protective investigations program:



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245 (1) Develop and implement a program of social services and
246 other supportive and rehabilitative services to be made
247 available to the parent or legal custodian of a child seeking
248 assistance pursuant to s. 39.201(2) (a). The social services and
249 other supportive and rehabilitative services shall promote the
250 child's physical, mental, and emotional health; provide a safe,
251 stable living environment; promote family autonomy; and
252 strengthen family life, whenever possible.

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

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

259 Section 4. Paragraph (e) of subsection (1) of section
260 409.1671, Florida Statutes, is amended to read:

261 409.1671 Foster care and related services; outsourcing.-

262 (1)

263 (e) As used in this section, the term "eligible lead
264 community-based provider" means a single agency with which the
265 department shall contract for the provision of child protective
266 services in a community that is no smaller than a county. The
267 secretary of the department may authorize more than one eligible
268 lead community-based provider within a single county when to do
269 so will result in more effective delivery of foster care and
270 related services. To compete for an outsourcing project, such
271 agency must have:

272 1. The ability to coordinate, integrate, and manage all
273 child protective services in the designated community in



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274 cooperation with child protective investigations.

275 2. The ability to ensure continuity of care from entry to
276 exit for all children referred from the protective investigation
277 and court systems.

278 3. The ability to provide directly, or contract for through
279 a local network of providers, all necessary child protective
280 services. Such agencies should directly provide no more than 35
281 percent of all child protective services provided.

282 4. The willingness to accept accountability for meeting the
283 outcomes and performance standards related to child protective
284 services established by the Legislature and the Federal
285 Government.

286 5. The capability and the willingness to serve all children
287 referred to it from the protective investigation and court
288 systems, regardless of the level of funding allocated to the
289 community by the state, provided all related funding is
290 transferred.

291 6. The willingness to ensure that each individual who
292 provides child protective services completes the training
293 required of child protective service workers by the Department
294 of Children and Family Services.

295 7. The ability to maintain eligibility to receive all
296 federal child welfare funds, including Title IV-E and IV-A
297 funds, currently being used by the Department of Children and
298 Family Services.

299 8. Written agreements with Healthy Families Florida lead
300 entities in their community, pursuant to s. 409.153, to promote
301 cooperative planning for the provision of prevention and
302 intervention services.



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

307 10. An alternative response to protective investigations
308 program pursuant to s. 39.309.

309 Section 5. Section 796.036, Florida Statutes, is created to
310 read:

311 796.036 Violations involving minors; reclassification.—

312 (1) The felony or misdemeanor degree of any violation of
313 this chapter, other than s. 796.03 or s. 796.035, in which a
314 minor engages in prostitution, lewdness, assignation, sexual
315 conduct, or other conduct as defined in or prohibited by this
316 chapter, but the minor is not the person charged with the
317 violation, is reclassified as provided in this section.

318 (2) Offenses shall be reclassified as follows:

319 (a) A misdemeanor of the second degree is reclassified to a
320 misdemeanor of the first degree.

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

323 (c) A felony of the third degree is reclassified to a
324 felony of the second degree.

325 (d) A felony of the second degree is reclassified to a
326 felony of the first degree.

327 (e) A felony of the first degree is reclassified to a life
328 felony.

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

331 960.198 Relocation assistance for victims of domestic



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332 violence.-

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

337 Section 7. Section 960.199, Florida Statutes, is created to
338 read:

339 960.199 Relocation assistance for victims of sexual
340 battery.-

341 (1) The department may award a one-time payment of up to
342 \$1,500 on any one claim and a lifetime maximum of \$3,000 to a
343 victim of sexual battery as defined in s. 794.011 who needs
344 relocation assistance.

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

347 (a) There must be proof that a sexual battery offense was
348 committed.

349 (b) The sexual battery offense must be reported to the
350 proper authorities.

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

353 (d) The center certification must assert that the victim is
354 cooperating with law enforcement officials, if applicable, and
355 must include documentation that the victim has developed a
356 safety plan.

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



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

365 Section 8. For the 2012-2013 state fiscal year, the sum of
366 \$1.5 million in recurring funds is appropriated from the General
367 Revenue Fund to the Department of Legal Affairs, Office of the
368 Attorney General, for the relocation of victims of sexual
369 battery as provided in s. 960.199, Florida Statutes, as created
370 by this act.

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

373 1012.98 School Community Professional Development Act.—

374 (12) The department shall require all certified school
375 personnel to participate in continuing education training
376 programs provided by the Department of Children and Family
377 Services relating to the identifying and reporting of child
378 abuse and neglect.

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

380
381 ===== T I T L E A M E N D M E N T =====

382 And the title is amended as follows:

383
384 Delete everything before the enacting clause
385 and insert:

386 A bill to be entitled
387 An act relating to protection of vulnerable persons;
388 amending s. 39.201, F.S.; revising language concerning
389 child abuse reporting; requiring the Department of



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390 Children and Family Services to provide for web-chat
391 and update other web-based forms for reporting child
392 abuse, abandonment, or neglect; requiring a study on
393 the use of short message format for the central abuse
394 hotline; requiring the development of a public
395 awareness campaign for the central abuse hotline;
396 requiring the collection of statistical reports on
397 child abuse and child sexual abuse on campuses of
398 colleges and universities; amending s. 39.205, F.S.;
399 increasing criminal penalties for knowingly and
400 willfully failing to report known or suspected child
401 abuse, abandonment, or neglect, or knowingly and
402 willfully preventing another person from doing so;
403 requiring specified educational institutions and their
404 law enforcement agencies to report known or suspected
405 child abuse, abandonment, or neglect in certain
406 circumstances; providing financial penalties for
407 violations; providing for challenges to findings of
408 determinations; proving for a presumption in certain
409 circumstances; creating s. 39.309, F.S.; requiring the
410 department to develop and implement a program of
411 social services and rehabilitative services for the
412 parent or legal custodian of a child seeking
413 assistance; amending s. 409.1671, F.S.; requiring
414 eligible lead community-based providers to have
415 alternative response to protective investigations
416 programs pursuant to specified provisions; creating s.
417 796.036, F.S.; providing for upward reclassification
418 of certain prostitution offenses involving minors;



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419 amending s. 960.198, F.S.; providing for denial of
420 relocation payment for a domestic violence claim if
421 the Department of Legal Affairs has previously paid a
422 sexual battery relocation claim to the same victim for
423 the same incident; creating s. 960.199, F.S.;
424 providing for relocation assistance payments to
425 victims of sexual battery; providing criteria for
426 awards; providing for denial of relocation payment for
427 a sexual battery claim if the department has
428 previously paid a domestic violence relocation claim
429 to the same victim for the same incident; providing an
430 appropriation; amending s. 1012.98, F.S.; providing a
431 continuing education requirement for certain teachers
432 on identifying and reporting child abuse and neglect;
433 providing an effective date.