

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Budget Subcommittee on Criminal and Civil Justice Appropriations

BILL: CS/SB 1816

INTRODUCER: Criminal Justice Committee and Senator Benacquisto

SUBJECT: Protection of Vulnerable Persons

DATE: February 16, 2012 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Erickson</u>	<u>Cannon</u>	<u>CJ</u>	Fav/CS
2.	<u>Sneed</u>	<u>Sadberry</u>	<u>BJA</u>	Pre-meeting
3.	_____	_____	<u>BC</u>	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

Please see Section VIII. for Additional Information:

- | | | |
|------------------------------|-------------------------------------|---|
| A. COMMITTEE SUBSTITUTE..... | <input checked="" type="checkbox"/> | Statement of Substantial Changes |
| B. AMENDMENTS..... | <input type="checkbox"/> | Technical amendments were recommended |
| | <input type="checkbox"/> | Amendments were recommended |
| | <input type="checkbox"/> | Significant amendments were recommended |

I. Summary:

The major features of the bill are described as follows:

- Requires reporting of child abuse, abandonment, or neglect by *any person* to the Department of Children and Family Services (DCF). Current law limits the reporting requirement to a parent, legal custodian, caregiver, or other person responsible for the child's welfare.
- Provides that any report of child abuse, etc., by a person other than the child's caregiver shall be taken by the Florida Abuse Hotline and forwarded to the appropriate county sheriff's office as currently provided in s. 39.201(2)(b), F.S.
- Creates two new reporting violations for which a Florida College System institution, state university, or nonpublic college, university, or school is subject to a \$1 million fine for each reporting violation and loss of *all* state funding for a period of 2 years. These violations involve:
 - Personnel of the Florida College System institution, etc., who knowingly and willfully fail to report known or suspected child abuse, etc., committed on the property of the institution, etc., or during an event or function sponsored by the institution, etc., or who knowingly and willfully prevent another person from doing so.

- A law enforcement agency of the institution, etc., which fails to transmit to prosecutorial authorities any report of known or suspected child abuse, etc., committed on the property of the institution, etc., or during an event or function sponsored by the institution, etc.
- Reclassifies the felony or misdemeanor degree of any violation of ch. 796, F.S., other than s. 796.03, F.S., or s. 796.035, F.S., in which a minor engages in prostitution, lewdness, assignation, sexual conduct, or other conduct as defined in or prohibited by ch. 796, F.S., but the minor is not the person charged with the violation.
- Expands the scope of victims who are eligible to receive monetary relocation assistance from the Department of Legal Affairs to include victims of sexual violence.

This bill substantially amends ss. 39.01, 39.201, 39.205, 39.302, 794.056, 938.085, and 960.198, F.S., and creates s. 796.036, F.S.

II. Present Situation:

Reporting Child Abuse

A study conducted in 2008 indicated that an estimated 4% to 16% of children are physically abused each year in high-income nations including the United States. Additionally, as many as 15% of children are neglected, and up to 10% of girls and 5% of boys suffer severe sexual abuse. Although it is difficult to measure, researchers believe that as few as 1 in 10 of those instances of abuse are actually confirmed by social-service agencies.¹ Recent national events have centered on issues with adults failing to report known instances of ongoing child abuse.

Section 39.201, F.S., requires a person to report certain known or suspected instances of child abuse. Specifically, the law mandates that a person report knowledge or suspicion of child abuse if the person knows, or has reasonable cause to suspect:

- A child is abused, abandoned, or neglected by a parent, legal custodian, caregiver, or other person responsible for the child's welfare²; or
- That a child is in need of supervision and care and has no parent, legal custodian, or responsible adult relative immediately known and available to provide supervision and care.

Section 39.201(2), F.S., prescribes the method of reporting child abuse. Instances of child abuse as described by s. 39.201(1), F.S., must be made "immediately to the department's³ central abuse hotline." If a person is required by s. 39.201, F.S., to report known or suspected child abuse and fails to do so, s. 39.205(1), F.S., makes it a first degree misdemeanor⁴ if the person knowingly or willfully failed to report, or knowingly or willfully prevented another person from reporting such abuse.

¹ See Tiffany Sharples, *Most Child Abuse Goes Unreported*, Time Health, (Dec. 2, 2008), available at <http://www.time.com> (search "unreported child abuse" (last visited Jan. 19, 2012)).

² "Other person responsible for a child's welfare" includes many enumerated parties, including employees of a school or day care center. The definition exempts law enforcement officers and employees of municipal or county detention facilities acting in an official capacity, except as otherwise provided in the subsection. Section 39.01(47), F.S.

³ "Department" means the Department of Children and Family Services.

⁴ A first degree misdemeanor is punishable by up to one year in county jail and a \$1,000 fine. Sections 775.082 and 775.083, F.S.

Relocation Assistance for Victims of Domestic Violence

Section 960.198, F.S., authorizes the Department of Legal Affairs (“DLA”) to award monetary payment to a victim of domestic violence in order to provide relocation assistance, under certain conditions. Specifically, the law authorizes DLA to award a victim of domestic violence who needs immediate assistance to escape from a domestic violence environment:

- A one-time payment not exceeding \$1,500 on any one claim; and
- A lifetime maximum of \$3,000.

Certain preconditions must be met before DLA may grant an award:

- There must be proof that a domestic violence offense was committed;
- The domestic violence offense must be reported to the proper authorities;
- The victim’s need for assistance must be certified by a domestic violence center in Florida; and
- The center certification must assert that the victim is cooperating with law enforcement officials, if applicable, and must include documentation that the victim has developed a safety plan.

III. Effect of Proposed Changes:

Section 1 amends s. 39.01, F.S., the definitions section of ch. 39, F.S. It deletes the current definition of the term “other person responsible for a child’s welfare.”

Section 2 amends s. 39.201, F.S., relating to mandatory reports of child abuse, abandonment, or neglect; mandatory reports of death; and the central abuse hotline. Currently, this statute provides, in part, that any person who knows, or has reasonable cause to suspect, that a child is abused, abandoned, or neglected by a parent, legal custodian, caregiver, or other person responsible for the child’s welfare shall report such knowledge or suspicion to the DCF. The bill requires this reporting when any person knows, or has reasonable cause to suspect that a child is abused, abandoned, or neglected by *any person*.

Additionally, it is provided that any report of child abuse, abandonment, or neglect by a person other than the child’s caregiver as defined in s. 39.01(10), F.S., shall be taken by the Florida Abuse Hotline and forwarded to the appropriate county sheriff’s office as provided in s. 39.201(2)(b), F.S.

Section 39.201(2)(b), F.S., provides that if the report is of an instance of known or suspected child abuse by someone other than a parent, legal custodian, caregiver, or other person responsible for the child’s welfare as defined in ch. 39, F.S., the report or call shall be immediately electronically transferred to the appropriate county sheriff’s office by the central abuse hotline.

Section 3 amends s. 39.205, F.S., which addresses penalties for acts relating to reporting child abuse, abandonment, or neglect. The bill creates two new reporting violations for which a Florida College System institution, state university, or nonpublic college, university, or school, as defined in s. 1000.21, F.S., or s. 1005.02, F.S., is subject to a \$1 million fine for each

reporting violation and loss of *all* state funding, including the funds under the Florida Resident Access Grant program, for a period of 2 years. These violations involve:

- Personnel of the Florida College System institution, state university, or private university or college, who knowingly and willfully fail to report known or suspected child abuse, abandonment or neglect committed on the property of the institution, or during an event or function sponsored by the institution, or who knowingly and willfully prevent another person from doing so.
- A law enforcement agency of the institution which fails to transmit to prosecutorial authorities any report of known or suspected child abuse, abandonment or neglect committed on the property of the institution, or during an event or function sponsored by the institution.

Section 4 amends s. 39.302, F.S., relating to protective investigations of institutional child abuse, abandonment, or neglect. Currently, this statute provides, in part, that the DCF shall conduct a child protective investigation of each report of institutional child abuse, abandonment, or neglect. Upon receipt of a report that alleges that an employee or agent of the DCF, or any other entity or person covered by s. 39.01(33) or (47), F.S., acting in an official capacity, has committed an act of child abuse, etc., the DCF shall initiate a child protective investigation as provided in the statute.

The bill deletes a reference to s. 39.01(47), F.S. This change is conforming since Section 1 of the bill deletes the current definition of the term “other person responsible for a child’s welfare,” which is contained in s. 39.01(47), F.S.

Section 5 creates s. 796.036, F.S., which reclassifies as follows the felony or misdemeanor degree of any violation of ch. 796, F.S., other than s. 796.03, F.S., or s. 796.035, F.S., in which a minor engages in prostitution, lewdness, assignation,⁵ sexual conduct, or other conduct as defined in or prohibited by ch. 796, F.S., but the minor is not the person charged with the violation:

- A second degree misdemeanor is reclassified to a first degree misdemeanor.
- A first degree misdemeanor is reclassified to a third degree felony.
- A third degree felony is reclassified to a second degree felony.
- A second degree felony is reclassified to a first degree felony.
- A first degree felony is reclassified to a life felony.

Section 6 amends s. 960.198, F.S., relating to relocation assistance for victims of domestic violence. Under this statute, the Department of Legal Affairs is authorized to award a one-time payment of up to \$1,500 on any one claim and a lifetime maximum of \$3,000 to a victim of domestic violence who needs immediate assistance to escape from a domestic violence environment, if specific criteria are met.⁶

⁵ “Assignation” is the making of any appointment or engagement for prostitution or lewdness, or any act in furtherance of such appointment or engagement. Section 796.07(1)(c), F.S.

⁶ As with domestic violence, there must be proof that a sexual violence offense was committed and the sexual violence offense must be reported to proper authorities. Further, consistent with the current requirement that the domestic violence victim’s need for assistance be certified by a certified domestic violence shelter in this state, the sexual violence offense victim’s need for assistance must be certified by a certified rape crisis center in this state.

The statute is amended to also authorize these payments for a victim of sexual violence who reasonably fears for her or his safety and meets criteria of the statute. Conforming changes are made to the statute title and text to reference “sexual violence” and, relevant to victims of sexual violence, require that the victim’s need for assistance is certified by a certified rape crisis center.

Section 7 amends s. 794.056, F.S., relating to the Rape Crises Program Trust Fund. This fund is created within the Department of Health to provide funds for rape crisis centers in this state. Trust fund moneys must be used exclusively for the purpose of providing services for victims of sexual assault. Funds credited to the trust fund consist of those funds collected as an additional court assessment in each case in which a defendant pleads guilty or nolo contendere to, or is found guilty of, regardless of adjudication, an offense provided in any number of specified statutes or statutory provisions. The statute is amended to delete reference to s. 796.045, F.S., which punishes sex trafficking. (See “Technical Deficiencies” section of this analysis.)

Section 8 amends s. 938.085, F.S., which provides, in part, that in addition to any sanction imposed when a person pleads guilty or nolo contendere to, or is found guilty of, regardless of adjudication, a violation of any of a number of specified statutes or statutory provisions, the court shall impose a surcharge of \$151.⁷ The statute is amended to delete reference to s. 796.045, which punishes sex trafficking. (See “Technical Deficiencies” section of this analysis.)

Section 9 provides that the act takes effect October 1, 2012.

Other Potential Implications:

Department of Children and Families (DCF)⁸:

The bill could potentially alter the mission of the DCF in that the department would shift investigative efforts from the continued safety of a child to determinations of guilt or innocence.

In its analysis, the DCF expressed the following concerns:

- Removes language defining the term “other person,” as set forth in s. 39.01(47). The term “other person” is ambiguous and could be open to interpretation (e.g., Does “other person” include minors as well as adults?) In addition, removes language exempting law enforcement officers, employees of municipal employees of county detention facilities and employees of Department of Corrections, who are acting within their authority for departmental investigative jurisdiction. Specifically strikes reference to s. 39.01(10), F.S.
- Does not clearly define the term “other person.” The term “other person” is not currently used or defined in Chapter 39, F.S.
- As proposed, the bill expands the type and scope of reports to the Florida Abuse Hotline to now include reports of alleged abuse, abandonment and neglect committed by “any person,” which could include an adult or a minor. Potentially, calls to the hotline would increase, which could require additional staff. The DCF states that “[t]he overall magnitude of this

⁷Payment of the surcharge is a condition of probation, community control, or any other court-ordered supervision. The clerk of court retains a \$1.00 service charge with the remaining \$150 surcharge deposited into the Rape Crisis Program Trust Fund.

⁸Analysis of CS/SB 1816, Department of Children and Family Services, dated February 1, 2012 (on file with the Budget Subcommittee on Criminal and Civil Justice Appropriations). This analysis is further cited as “DCF Analysis.”

expected increase can be divided into two distinct populations.”⁹ This section also removes reference to s. 39.01(47), F.S.

The DCF further stated that the bill “does not distinguish between known and alleged acts of abuse, abandonment or neglect based on the age of the perpetrator.” The bill is ambiguous with regards to alleged acts of child abuse committed by minors. The DCF foresees that fights between school age children on school property or cyberbullying would necessitate the filing of a report by school officials or law enforcement.

In its analysis, the DCF cited information from the Florida Department of Education’s *Incidents of Crime and Violence in Florida Schools*.¹⁰ The data provided in Table 1 shows “there were 54,273 incidents of potential acts of abuse that occurred in Florida schools during the 2007-08 school year[.]”¹¹

Table 1: Florida Department of Education <i>Incidents of Crime and Violence in Florida Schools</i> (2007-2008 School Year) ¹²	
Allegation	Number of Incidents
Battery	8,600
Bullying	5,730
Fighting	30,412
Homicide	3
Kidnapping	4
Sexual Offense	1,287
Sexual Battery	126
Sexual Harassment	2,150
Threat/ Intimidation	5,961
Total	54,273
Data Source Florida Department of Education 2007-08 FSIR Indicators http://www.fldoe.org/eias/eiaspubs/fsir.asp	

By striking the definition of “other person,” in s. 39.201(47), the proposed language expands the definition of parental or guardianship responsibility and potentially increases the number of abuse, abandonment or neglect cases received by the Florida Abuse Hotline. The additional calls to the hotline would result in referrals to the appropriate county sheriff’s office, increasing the expenditure of time and resources.

⁹DCF Analysis.

¹⁰DCF Analysis, citing Florida Department of Education, Florida School Indicators Report 2007-08 <http://www.fldoe.org/eias/eiaspubs/fsir.asp>.

¹¹*Id.*

¹²*Id.*

In its analysis, the DCF cites *The Victimization of Children and Youth: A Comprehensive, National Survey*¹³ in 2005, which states:

- 1 in 2 children will experience physical assault;
- 1 in 12 children will experience sexual assault;
- 1 in 7 children will experience maltreatment (excluding corporal punishment);
- 1 in 4 children will experience property victimization; and,
- 1 in 3 children will be a witness to victimization of others/indirect victimization.

The survey estimates “that four percent of children who experienced a physical assault reported that the perpetrator was an adult stranger.”¹⁴

The DCF, applying the survey’s percentage of physical stranger assaults to the 2010 U.S. Census Data, estimates that each year approximately 80,000 children will be in danger of becoming physically assaulted by an adult stranger. (This estimate does not include assaults by minors.) Using a conservative estimate of 50 percent of these incidents, DCF estimates that the Florida Abuse Hotline would see an increase of an additional 40,000 calls per year.¹⁵ The DCF estimates a 20 percent workload increase to the 24/7 call center.

Department of Education¹⁶

The Department of Education raised several concerns about the bill. According to the department, the term “other person” may be widely interpreted and should be more clearly defined. By striking s. 39.01(47), F.S., “the bill may be inadvertently blurring or blending the jurisdiction of the Department of Children and Families and law enforcement.”¹⁷

Specifically, the DOE analysis states:

Chapter 39, F.S., focuses on the welfare of children, but does so within the context of the child’s family unit. The bill as written appears to do away with the nexus between the subject child and acts committed by the person who is responsible for the child, and instead broadens the category of persons to include everyone, regardless of that person’s relationship to the child. For example, if a child attending a function with a parent on the grounds of a state college is struck by a bystander, the bill requires a person who witnesses that act to call the Florida Abuse Hotline. DCF staff then determines if the report meets the statutory definition of child abuse, abandonment, or neglect. The challenge arises as the bystander who struck the child has no parent or caretaker connection to the child, and therefore does not fall within the population contemplated under Chapter 39. A

¹³*Id.*

¹⁴*Id.*

¹⁵DCF Analysis (footnotes omitted), citing to Finkelhor, D., Turner, H.A., and Hamby, S.L. (2005). The victimization of children and youth: A comprehensive, national survey. *Child Maltreatment*, 10(1): 5-25 (CV-73). The DFF also notes that children between the ages of 0 and 17 years old represent 21.3 percent of the population of Florida or are 4,004,679 children.

¹⁶Analysis of CS/SB 1816, Florida Department of Education, dated February 13, 2012 (on file with the Budget Subcommittee on Criminal and Civil Justice Appropriations). This analysis is further cited as “DOE Analysis.”

¹⁷*Id.*

person with no legally cognizable relationship with the child cannot by definition neglect or abandon the child; should that person physically or sexually abuse the child, then criminal statutes would come into play.”¹⁸

The bill expands the definition of mandatory reporting requirements and would require “any person,” which may include a public school employee, to report any suspected child abuse, abandonment or neglect by a caregiver, to the Florida Abuse Hotline. “A person with no legally cognizable relationship with the child cannot by definition neglect or abandon the child, should that person physically or sexually abuse the child, then criminal statutes would come into play.”¹⁹

The bill creates new language which imposes and levies a \$1 million fine and loss of any state funds for two years for any public and nonpublic postsecondary institution defined in ss. 1000.21 and 1005.02, F.S., for each occurrence when administrators, faculty or staff knowingly or willfully fail to report known or suspected child abuse. The loss of such funds would be detrimental to the affected institutions and to those students seeking a degree.

It is unclear if the loss of funding and the fine would be applicable if the university or college reported the suspected abuse to its law enforcement agency, but not to the Florida Abuse Hotline.

The DOE states it is unclear :

- Whether the bill impacts the Access to Better Learning and Education (ABLE) Grant Program (\$2.4 million);
- If the incident is reported only to the educational institution’s law enforcement agency and not to DCF’s abuse hotline, would the fine of \$1 million and subsequent loss of state funding would apply to the educational institution and its law enforcement agency?

The bill appears to be in conflict with a governmental entity’s sovereign immunity as defined in s. 768.28(9)(a), F.S. and does not provide remedy or protection for reported child abuse allegations which are subsequently classified as “unfounded.”

While the substantial fine and loss of state funding are based on knowing and willful failure to report child abuse, etc., it is possible this knowing and willful failure may have been by personnel of the institution without the knowledge of the institution’s administrators.

If the intent of Section 3 was to partially address a situation similar to what recently occurred at Penn State University, that situation appears to involve alleged child abuse, rather than abandonment and neglect.

Section 3 appears to also apply to students under the age of 18 who are victims of abuse, abandonment, and neglect.

¹⁸Analysis of CS/SB 1816, Florida Department of Education, dated February 13, 2012 (on file with the Budget Subcommittee on Criminal and Civil Justice Appropriations). This analysis is further cited as “DOE Analysis.”

¹⁹*Id.*

Questions may arise about the scope of Section 3. For example, many universities and colleges have on-site day care. If a child comes to school unfed and/or malnourished, is the university or college subject to the bill's penalties if a child care worker is aware of the child's situation and does not report it? Some of the child care workers are students working part-time while they are going to school.

Board of Governors²⁰

The Board of Governors (BOG) expressed a concern with the bill, in that, any public postsecondary institution which receives a \$1 million dollar fine and loss of funding for two years, may be financially unable to continue operating. The BOG reports that in order to continue their degree, students would be required to transfer to other institutions. This could add economic and emotional strain to the students and faculty.

The BOG states in their analysis that “[s]tate funding is the primary revenue source for all public postsecondary institutions; the loss of these funds, regardless of the length of time imposed, would be detrimental to the institution and the students seeking a degree.”²¹

Furthermore, the BOG states that “[a]ny public postsecondary institution that loses all of its state funding for a period of two years, including funds under the Resident Access Grant Program, would be unable to operate and students would be required to transfer to another institution to continue their degree programs. Closure of an institution would have an extremely disruptive and detrimental impact on all students at the institution at every level (undergraduate, graduate and professional).”

Department of Legal Affairs/Office of Attorney General

Section 6 of the bill amends s. 960.198, F.S., relating to relocation assistance for victims of domestic violence. Under this statute, the Department of Legal Affairs is authorized to award from the Crimes Compensation Trust Fund a one-time payment of up to \$1,500 on any one claim and a lifetime maximum of \$3,000 to a victim of domestic violence who needs immediate assistance to escape from a domestic violence environment, if specific criteria are met. The statute is amended to also authorize these payments for a victim of sexual violence.

The 2010 Crime in Florida Annual Report indicated that there were 9,885 Forcible Sex Offenses. It is unknown how many of these forcible sex victims may have qualified as a domestic violence victim, as well. It is unknown how many would have requested relocation assistance as a sexual violence victim.

Revenues for the Crimes Compensation Trust Fund are derived from the collection of state and federal criminal assessments. The funds are used to run the Crimes Compensation Program. Crime victims serviced by this program include victims of assault, battery, homicide, sexual offenses, domestic violence, driving while intoxicated, hit and run, stalking, robbery, terrorism,

²⁰Analysis of CS/SB 1816, Board of Governors, dated January 25, 2011 (on file with the Budget Subcommittee on Criminal and Civil Justice Appropriations).

²¹ BOG analysis. All further information in this section of the analysis regarding the BOG is from this source.

kidnapping, arson, and all other violent crimes. Eligible expenses currently paid by the victims compensation program include medical/dental, mental health treatment, crime scene clean-up, funeral/burial, wage loss, loss of support, disability, forensic sexual assault examinations, property loss (for elderly and disabled adults only), and relocation expenses for victims of domestic violence. Since Fiscal Year 2005-06, the claims workload has increased by 19.3 percent and the dollars paid out have increased by 40 percent.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. Other Constitutional Issues:

The proposed penalty classification solely for public and nonpublic postsecondary educational institutions may raise an equal protection question under the state and federal constitutions.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The DOE analysis states “[n]onpublic colleges, universities, and schools would face substantial penalties if any personnel or law enforcement agents knowingly or willfully fail to report known or suspected child abuse occurring on the property of the institution or during an event sponsored by the institution.”²²

The potential impact on faculty, staff and students is indeterminate. In the event a school is fined or loses funding, staff may face layoffs, or the school may shut down in part or in whole, which would affect the local economy or degree seeking students may be forced to transfer to other schools.

²² DOE Analysis.

C. Government Sector Impact:

Department of Children and Families

According to DCF, the Florida Abuse Hotline could potentially see a 40,000 annual increase in call volume. DCF estimates it will need 75 staff positions to respond to the increased calls. The additional staffing is projected to cost the department \$3,321,000 for Fiscal Year 2012-13 (October 1, 2012 through June 30, 2013) and \$3,866,331 annually.

Salaries and Benefits:	
66 FTE Abuse Registry Counselors @ \$42,929 ea.	\$2,833,314
9 FTE Abuse Registry Supervisors @ \$57,075 ea.	\$513,672
Expenses (\$6,555 per position)	\$492,625
HR Services (\$356 per position)	<u>\$26,700</u>
Total Annual Cost	<u>\$3,866,331</u>

Florida Educational Institutions

The bill creates reporting violations for which a state college or university, or nonpublic college, university, or school is subject to a \$1 million fine for each failure and loss of state funding, including the funds under the Florida Resident Access Grant program, for a period of 2 years.

Operating funds for Florida College System institutions and state universities are derived from state appropriations and student tuition. Potentially, a fine of \$1 million plus a two year loss of state funding imposed upon a college or university could result in the educational institution being unable to operate.²³

Department of Legal Affairs/Office of Attorney General

The bill would require the Department of Legal Affairs/Office of Attorney General to expend additional revenue from the Crimes Compensation Trust Fund to meet the potential demand for relocation assistance for victims of sexual violence. The bill authorizes the department to award a one-time payment of up to \$1,500 to a victim of sexual violence and a lifetime maximum of \$3,000 to a victim of sexual violence who reasonably fears for his or her safety.

Department of Corrections

The bill reclassifies the degree of felony and misdemeanor violations in ch. 796, F.S. The Criminal Justice Impact Conference, which provides the final, official estimate of the prison bed impact, if any, of legislation met on January 30, 2012 and determined that the bill will have an insignificant prison bed impact due to the low number of offenses in which a minor engages in prostitution, lewdness, assignation, sexual conduct or other conduct prohibited by chapter 796, F.S.

²³ DOE analysis. All further information in this section of the analysis regarding the DOE is from this source.

VI. Technical Deficiencies:

The bill amends ss. 794.056, F.S. (Rape Crisis Program Trust Fund) and s. 938.085, F.S. (additional cost to fund rape crisis centers) to delete reference to s. 796.045, F.S., which punishes sex trafficking. The original bill repealed s. 796.045, F.S., and therefore, the deletion of the reference to s. 796.045, F.S., in ss. 794.056 and 938.085, F.S., was simply a conforming change. However, the current bill does not repeal s. 796.045, F.S., and therefore, there is no longer a need for the conforming change. Consequently, the bill sponsor may wish to consider removing Sections 7 and 8 from the bill to avoid confusion.

In regard to Section 3 of the bill, there is no language in the bill regarding where the collected fine is to be deposited, i.e., into General Revenue or another trust fund, and if into a trust fund, for what purpose.

Lines 88-89 and 100-101 contain the language: “school, as defined in s. 1000.21 or s. 1005.02.” According to the DOE, these sections do not define “school, and therefore, “[i]t , is unclear whether the intent of the bill is to make all schools, including charter, private, virtual, etc., subject to the requirements and financial penalties contained in the bill.”

VII. Related Issues:

None.

VIII. Additional Information:**A. Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)**CS by Criminal Justice on January 31, 2012:**

- Removes from the bill provisions in the original bill that amended ss. 90.404, 772.102, 787.06, 796.035, 796.07, 895.02, 921.0022, and 932.701, F.S., and that repealed ss. 787.05 and 796.045, F.S.
- Provides that any report of child abuse, abandonment, or neglect by a person other than the child’s caregiver as defined in s. 39.01(10), F.S., shall be taken by the Florida Abuse Hotline and forwarded to the appropriate county sheriff’s office as provided in s. 39.201(2)(b), F.S.

B. Amendments:

None.