

By the Committee on Criminal Justice; and Senator Benacquisto

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1 A bill to be entitled
2 An act relating to protection of vulnerable persons;
3 amending s. 39.01, F.S.; deleting the definition of
4 the term "other person responsible for a child's
5 welfare"; conforming provisions; amending s. 39.201,
6 F.S.; revising provisions concerning child abuse
7 reporting; amending s. 39.205, F.S.; requiring
8 specified educational institutions and their law
9 enforcement agencies to report known or suspected
10 child abuse, abandonment, or neglect in certain
11 circumstances; providing financial penalties for
12 violations; amending s. 39.302, F.S.; conforming a
13 cross-reference; creating s. 796.036, F.S.; providing
14 for upward reclassification of certain prostitution
15 offenses involving minors; amending s. 960.198, F.S.;
16 providing for relocation assistance for certain
17 victims of sexual violence; amending ss. 794.056 and
18 938.085, F.S.; conforming cross-references; providing
19 an effective date.

20
21 Be It Enacted by the Legislature of the State of Florida:

22
23 Section 1. Subsections (48) through (76) of section 39.01,
24 Florida Statutes, are renumbered as subsections (47) through
25 (75), respectively, and present subsections (10) and (47) of
26 that section are amended to read:

27 39.01 Definitions.—When used in this chapter, unless the
28 context otherwise requires:

29 (10) "Caregiver" means the parent, legal custodian,

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30 permanent guardian, adult household member, or other person
31 responsible for a child's welfare ~~as defined in subsection (47).~~

32 ~~(47) "Other person responsible for a child's welfare"~~
33 ~~includes the child's legal guardian or foster parent; an~~
34 ~~employee of any school, public or private child day care center,~~
35 ~~residential home, institution, facility, or agency; a law~~
36 ~~enforcement officer employed in any facility, service, or~~
37 ~~program for children that is operated or contracted by the~~
38 ~~Department of Juvenile Justice; or any other person legally~~
39 ~~responsible for the child's welfare in a residential setting;~~
40 ~~and also includes an adult sitter or relative entrusted with a~~
41 ~~child's care. For the purpose of departmental investigative~~
42 ~~jurisdiction, this definition does not include the following~~
43 ~~persons when they are acting in an official capacity: law~~
44 ~~enforcement officers, except as otherwise provided in this~~
45 ~~subsection; employees of municipal or county detention~~
46 ~~facilities; or employees of the Department of Corrections.~~

47 Section 2. Paragraph (a) of subsection (1) and paragraph
48 (a) of subsection (2) of section 39.201, Florida Statutes, are
49 amended to read:

50 39.201 Mandatory reports of child abuse, abandonment, or
51 neglect; mandatory reports of death; central abuse hotline.—

52 (1) (a) Any person who knows, or has reasonable cause to
53 suspect, that a child is abused, abandoned, or neglected by any
54 person ~~a parent, legal custodian, caregiver, or other person~~
55 ~~responsible for the child's welfare, as defined in this chapter,~~
56 or that a child is in need of supervision and care and has no
57 parent, legal custodian, or responsible adult relative
58 immediately known and available to provide supervision and care,

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59 shall report such knowledge or suspicion to the department in
60 the manner prescribed in subsection (2).

61 (2) (a) Each report of known or suspected child abuse,
62 abandonment, or neglect by any person ~~a parent, legal custodian,~~
63 ~~caregiver, or other person responsible for the child's welfare~~
64 ~~as defined in this chapter~~, except those solely under s.
65 827.04(3), and each report that a child is in need of
66 supervision and care and has no parent, legal custodian, or
67 responsible adult relative immediately known and available to
68 provide supervision and care shall be made immediately to the
69 department's central abuse hotline. Such reports may be made on
70 the single statewide toll-free telephone number or via fax or
71 web-based report. Personnel at the department's central abuse
72 hotline shall determine if the report received meets the
73 statutory definition of child abuse, abandonment, or neglect.
74 Any report meeting one of these definitions shall be accepted
75 for the protective investigation pursuant to part III of this
76 chapter. Any report of child abuse, abandonment, or neglect by a
77 person other than the child's caregiver as defined in s.
78 39.01(10), shall be taken by the Florida Abuse Hotline and
79 forwarded to the appropriate county sheriff's office pursuant to
80 paragraph (b).

81 Section 3. Subsections (3) through (6) of section 39.205,
82 Florida Statutes, are renumbered as subsections (5) through (8),
83 respectively, and new subsections (3) and (4) are added to that
84 section to read:

85 39.205 Penalties relating to reporting of child abuse,
86 abandonment, or neglect.—

87 (3) Any Florida College System institution, state

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88 university, or nonpublic college, university, or school, as
89 defined in s. 1000.21 or s. 1005.02, whose administrators,
90 faculty, or staff knowingly and willfully fail to report known
91 or suspected child abuse, abandonment, or neglect committed on
92 the property of the institution, university, college, or school,
93 or during an event or function sponsored by the institution,
94 university, college, or school, or who knowingly and willfully
95 prevent another person from doing so, shall be subject to fines
96 of \$1 million for each such failure and the loss of all state
97 funding, including the funds under the Florida Resident Access
98 Grant Program, for a period of 2 years.

99 (4) Any Florida College System institution, state
100 university, or nonpublic college, university, or school, as
101 defined in s. 1000.21 or s. 1005.02, whose law enforcement
102 agency fails to transmit to prosecutorial authorities any report
103 of known or suspected child abuse, abandonment, or neglect
104 committed on the property of the institution, university,
105 college, or school, or during an event or function sponsored by
106 the institution, university, college, or school, shall be
107 subject to fines of \$1 million for each such failure and the
108 loss of all state funding, including the funds under the Florida
109 Resident Access Grant Program, for a period of 2 years.

110 Section 4. Subsection (1) of section 39.302, Florida
111 Statutes, is amended to read:

112 39.302 Protective investigations of institutional child
113 abuse, abandonment, or neglect.—

114 (1) The department shall conduct a child protective
115 investigation of each report of institutional child abuse,
116 abandonment, or neglect. Upon receipt of a report that alleges

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117 that an employee or agent of the department, or any other entity
118 or person covered by s. 39.01(33) ~~or (47)~~, acting in an official
119 capacity, has committed an act of child abuse, abandonment, or
120 neglect, the department shall initiate a child protective
121 investigation within the timeframe established under s.
122 39.201(5) and orally notify the appropriate state attorney, law
123 enforcement agency, and licensing agency, which shall
124 immediately conduct a joint investigation, unless independent
125 investigations are more feasible. When conducting investigations
126 onsite or having face-to-face interviews with the child,
127 investigation visits shall be unannounced unless it is
128 determined by the department or its agent that unannounced
129 visits threaten the safety of the child. If a facility is exempt
130 from licensing, the department shall inform the owner or
131 operator of the facility of the report. Each agency conducting a
132 joint investigation is entitled to full access to the
133 information gathered by the department in the course of the
134 investigation. A protective investigation must include an onsite
135 visit of the child's place of residence. The department shall
136 make a full written report to the state attorney within 3
137 working days after making the oral report. A criminal
138 investigation shall be coordinated, whenever possible, with the
139 child protective investigation of the department. Any interested
140 person who has information regarding the offenses described in
141 this subsection may forward a statement to the state attorney as
142 to whether prosecution is warranted and appropriate. Within 15
143 days after the completion of the investigation, the state
144 attorney shall report the findings to the department and shall
145 include in the report a determination of whether or not

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146 prosecution is justified and appropriate in view of the
147 circumstances of the specific case.

148 Section 5. Section 796.036, Florida Statutes, is created to
149 read:

150 796.036 Violations involving minors; reclassification.—

151 (1) The felony or misdemeanor degree of any violation of
152 this chapter, other than s. 796.03 or s. 796.035, in which a
153 minor engages in prostitution, lewdness, assignation, sexual
154 conduct, or other conduct as defined in or prohibited by this
155 chapter, but the minor is not the person charged with the
156 violation, is reclassified as provided in this section.

157 (2) Offenses shall be reclassified as follows:

158 (a) A misdemeanor of the second degree is reclassified to a
159 misdemeanor of the first degree.

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

162 (c) A felony of the third degree is reclassified to a
163 felony of the second degree.

164 (d) A felony of the second degree is reclassified to a
165 felony of the first degree.

166 (e) A felony of the first degree is reclassified to a life
167 felony.

168 Section 6. Section 960.198, Florida Statutes, is amended to
169 read:

170 960.198 Relocation assistance for victims of domestic
171 violence or sexual violence.—

172 (1) Notwithstanding the criteria set forth in s. 960.13 for
173 crime victim compensation awards, the department may award a
174 one-time payment of up to \$1,500 on any one claim and a lifetime

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175 maximum of \$3,000 to a victim of domestic violence who needs
176 immediate assistance to escape from a domestic violence
177 environment or to a victim of sexual violence who reasonably
178 fears for her or his safety.

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

181 (a) There must be proof that a domestic violence or sexual
182 violence offense was committed;

183 (b) The domestic violence or sexual violence offense must
184 be reported to the proper authorities;

185 (c) The victim's need for assistance must be certified by a
186 certified domestic violence center or a certified rape crisis
187 center in this state; and

188 (d) The center certification must assert that the victim is
189 cooperating with law enforcement officials, if applicable, and
190 must include documentation that the victim has developed a
191 safety plan.

192 Section 7. Subsection (1) of section 794.056, Florida
193 Statutes, is amended to read:

194 794.056 Rape Crisis Program Trust Fund.—

195 (1) The Rape Crisis Program Trust Fund is created within
196 the Department of Health for the purpose of providing funds for
197 rape crisis centers in this state. Trust fund moneys shall be
198 used exclusively for the purpose of providing services for
199 victims of sexual assault. Funds credited to the trust fund
200 consist of those funds collected as an additional court
201 assessment in each case in which a defendant pleads guilty or
202 nolo contendere to, or is found guilty of, regardless of
203 adjudication, an offense provided in s. 775.21(6) and (10)(a),

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204 (b), and (g); s. 784.011; s. 784.021; s. 784.03; s. 784.041; s.
 205 784.045; s. 784.048; s. 784.07; s. 784.08; s. 784.081; s.
 206 784.082; s. 784.083; s. 784.085; s. 787.01(3); s. 787.02(3); s.
 207 787.025; s. 787.06; s. 787.07; s. 794.011; s. 794.05; s. 794.08;
 208 s. 796.03; s. 796.035; s. 796.04; ~~s. 796.045~~; s. 796.05; s.
 209 796.06; s. 796.07(2)(a)-(d) and (i); s. 800.03; s. 800.04; s.
 210 810.14; s. 810.145; s. 812.135; s. 817.025; s. 825.102; s.
 211 825.1025; s. 827.071; s. 836.10; s. 847.0133; s. 847.0135(2); s.
 212 847.0137; s. 847.0145; s. 943.0435(4)(c), (7), (8), (9)(a),
 213 (13), and (14)(c); or s. 985.701(1). Funds credited to the trust
 214 fund also shall include revenues provided by law, moneys
 215 appropriated by the Legislature, and grants from public or
 216 private entities.

217 Section 8. Section 938.085, Florida Statutes, is amended to
 218 read:

219 938.085 Additional cost to fund rape crisis centers.—In
 220 addition to any sanction imposed when a person pleads guilty or
 221 nolo contendere to, or is found guilty of, regardless of
 222 adjudication, a violation of s. 775.21(6) and (10)(a), (b), and
 223 (g); s. 784.011; s. 784.021; s. 784.03; s. 784.041; s. 784.045;
 224 s. 784.048; s. 784.07; s. 784.08; s. 784.081; s. 784.082; s.
 225 784.083; s. 784.085; s. 787.01(3); s. 787.02(3); 787.025; s.
 226 787.06; s. 787.07; s. 794.011; s. 794.05; s. 794.08; s. 796.03;
 227 s. 796.035; s. 796.04; ~~s. 796.045~~; s. 796.05; s. 796.06; s.
 228 796.07(2)(a)-(d) and (i); s. 800.03; s. 800.04; s. 810.14; s.
 229 810.145; s. 812.135; s. 817.025; s. 825.102; s. 825.1025; s.
 230 827.071; s. 836.10; s. 847.0133; s. 847.0135(2); s. 847.0137; s.
 231 847.0145; s. 943.0435(4)(c), (7), (8), (9)(a), (13), and
 232 (14)(c); or s. 985.701(1), the court shall impose a surcharge of

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233 \$151. Payment of the surcharge shall be a condition of
234 probation, community control, or any other court-ordered
235 supervision. The sum of \$150 of the surcharge shall be deposited
236 into the Rape Crisis Program Trust Fund established within the
237 Department of Health by chapter 2003-140, Laws of Florida. The
238 clerk of the court shall retain \$1 of each surcharge that the
239 clerk of the court collects as a service charge of the clerk's
240 office.

241 Section 9. This act shall take effect October 1, 2012.