

By the Committees on Budget Subcommittee on Criminal and Civil Justice Appropriations; and Criminal Justice; and Senators Benacquisto and Sachs

604-04275A-12

20121816c2

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

604-04275A-12

20121816c2

30 alternative response to protective investigations
31 programs pursuant to specified provisions; creating s.
32 796.036, F.S.; providing for upward reclassification
33 of certain prostitution offenses involving minors;
34 amending s. 960.198, F.S.; providing for denial of
35 relocation payment for a domestic violence claim if
36 the Department of Legal Affairs has previously paid a
37 sexual battery relocation claim to the same victim for
38 the same incident; creating s. 960.199, F.S.;

39 providing for relocation assistance payments to
40 victims of sexual battery; providing criteria for
41 awards; providing for denial of relocation payment for
42 a sexual battery claim if the department has
43 previously paid a domestic violence relocation claim
44 to the same victim for the same incident; providing an
45 appropriation; amending s. 1012.98, F.S.; providing a
46 continuing education requirement for certain teachers
47 on identifying and reporting child abuse and neglect;
48 providing an effective date.

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

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

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

57 (1) (a) Any person who knows, or has reasonable cause to
58 suspect, that a child is physically or emotionally abused,

604-04275A-12

20121816c2

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

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

87 (b) If the report is of an instance of known or suspected

604-04275A-12

20121816c2

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

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

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

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

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

116 1. The department shall determine the age of the alleged

604-04275A-12

20121816c2

117 offender, if known.

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

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

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

135 1. If the report is of a surrendered newborn infant as
136 described in s. 383.50 and there is no indication of abuse,
137 neglect, or abandonment other than that necessarily entailed in
138 the infant having been left at a hospital, emergency medical
139 services station, or fire station, the department shall provide
140 to the caller the name of a licensed child-placing agency on a
141 rotating basis from a list of licensed child-placing agencies
142 eligible and required to accept physical custody of and to place
143 newborn infants left at a hospital, emergency medical services
144 station, or fire station. The report shall not be considered a
145 report of abuse, neglect, or abandonment solely because the

604-04275A-12

20121816c2

146 infant has been left at a hospital, emergency medical services
147 station, or fire station pursuant to s. 383.50.

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

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

168 (i) The department shall voice-record all incoming or
169 outgoing calls that are received or placed by the central abuse
170 hotline which relate to suspected or known child abuse, neglect,
171 or abandonment. The department shall maintain an electronic copy
172 of each fax and web-based report. The recording or electronic
173 copy of each fax and web-based report shall become a part of the
174 record of the report but, notwithstanding s. 39.202, shall be

604-04275A-12

20121816c2

175 released in full only to law enforcement agencies and state
176 attorneys for the purpose of investigating and prosecuting
177 criminal charges pursuant to s. 39.205, or to employees of the
178 department for the purpose of investigating and seeking
179 administrative penalties pursuant to s. 39.206. Nothing in this
180 paragraph shall prohibit the use of the recordings, the
181 electronic copies of faxes, and web-based reports by hotline
182 staff for quality assurance and training.

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

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

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

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

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

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

197 (4) The department shall establish and maintain a central
198 abuse hotline to receive all reports made pursuant to this
199 section in writing, via fax, via web-based reporting, via web-
200 based chat, or through a single statewide toll-free telephone
201 number, which any person may use to report known or suspected
202 child abuse, abandonment, or neglect at any hour of the day or
203 night, any day of the week. The department shall promote public

604-04275A-12

20121816c2

204 awareness of the central abuse hotline through community-based
205 partner organizations and public service campaigns. The central
206 abuse hotline shall be operated in such a manner as to enable
207 the department to:

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

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

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

218 (d) Maintain and produce aggregate statistical reports
219 monitoring patterns of child abuse, child abandonment, and child
220 neglect. The department shall collect and analyze child-on-child
221 sexual abuse reports and include the information in aggregate
222 statistical reports. The department shall collect and analyze,
223 in separate statistical reports, those reports of child abuse
224 and sexual abuse which are reported from or occurred on the
225 campus of any Florida College System institution, state
226 university, or nonpublic college, university, or school, as
227 defined in s. 1000.21 or s. 1005.02.

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

231 (f) Initiate and enter into agreements with other states
232 for the purpose of gathering and sharing information contained

604-04275A-12

20121816c2

233 in reports on child maltreatment to further enhance programs for
234 the protection of children.

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

240 39.205 Penalties relating to reporting of child abuse,
241 abandonment, or neglect.—

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

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

604-04275A-12

20121816c2

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

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

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

269 (4) Any Florida College System institution, state
270 university, or nonpublic college, university, or school, as
271 defined in s. 1000.21 or s. 1005.02, whose law enforcement
272 agency fails to report known or suspected child abuse,
273 abandonment, or neglect committed on the property of the
274 university, college, or school, or during an event or function
275 sponsored by the university, college, or school, shall be
276 subject to fines of \$1 million for each such failure, assessed
277 in the same manner as subsection (3).

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

288 Section 3. Section 39.309, Florida Statutes, is created to
289 read:

290 39.309 Alternative response to protective investigation.-

604-04275A-12

20121816c2

291 The department shall, in order to implement an alternative
292 response to protective investigations program:

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

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

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

307 Section 4. Paragraph (e) of subsection (1) of section
308 409.1671, Florida Statutes, is amended to read:

309 409.1671 Foster care and related services; outsourcing.—

310 (1)

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

604-04275A-12

20121816c2

- 320 1. The ability to coordinate, integrate, and manage all
321 child protective services in the designated community in
322 cooperation with child protective investigations.
- 323 2. The ability to ensure continuity of care from entry to
324 exit for all children referred from the protective investigation
325 and court systems.
- 326 3. The ability to provide directly, or contract for through
327 a local network of providers, all necessary child protective
328 services. Such agencies should directly provide no more than 35
329 percent of all child protective services provided.
- 330 4. The willingness to accept accountability for meeting the
331 outcomes and performance standards related to child protective
332 services established by the Legislature and the Federal
333 Government.
- 334 5. The capability and the willingness to serve all children
335 referred to it from the protective investigation and court
336 systems, regardless of the level of funding allocated to the
337 community by the state, provided all related funding is
338 transferred.
- 339 6. The willingness to ensure that each individual who
340 provides child protective services completes the training
341 required of child protective service workers by the Department
342 of Children and Family Services.
- 343 7. The ability to maintain eligibility to receive all
344 federal child welfare funds, including Title IV-E and IV-A
345 funds, currently being used by the Department of Children and
346 Family Services.
- 347 8. Written agreements with Healthy Families Florida lead
348 entities in their community, pursuant to s. 409.153, to promote

604-04275A-12

20121816c2

349 cooperative planning for the provision of prevention and
350 intervention services.

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

355 10. An alternative response to protective investigations
356 program pursuant to s. 39.309.

357 Section 5. Section 796.036, Florida Statutes, is created to
358 read:

359 796.036 Violations involving minors; reclassification.—

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

366 (2) Offenses shall be reclassified as follows:

367 (a) A misdemeanor of the second degree is reclassified to a
368 misdemeanor of the first degree.

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

371 (c) A felony of the third degree is reclassified to a
372 felony of the second degree.

373 (d) A felony of the second degree is reclassified to a
374 felony of the first degree.

375 (e) A felony of the first degree is reclassified to a life
376 felony.

377 Section 6. Subsection (3) is added to section 960.198,

604-04275A-12

20121816c2

378 Florida Statutes, to read:

379 960.198 Relocation assistance for victims of domestic
380 violence.—

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

385 Section 7. Section 960.199, Florida Statutes, is created to
386 read:

387 960.199 Relocation assistance for victims of sexual
388 battery.—

389 (1) The department may award a one-time payment of up to
390 \$1,500 on any one claim and a lifetime maximum of \$3,000 to a
391 victim of sexual battery as defined in s. 794.011 who needs
392 relocation assistance.

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

395 (a) There must be proof that a sexual battery offense was
396 committed.

397 (b) The sexual battery offense must be reported to the
398 proper authorities.

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

401 (d) The center certification must assert that the victim is
402 cooperating with law enforcement officials, if applicable, and
403 must include documentation that the victim has developed a
404 safety plan.

405 (e) The act of sexual battery must be committed in the
406 victim's place of residence or in a location that would lead the

604-04275A-12

20121816c2

407 victim to reasonably fear for his or her continued safety in the
408 place of residence.

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

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

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

421 1012.98 School Community Professional Development Act.—

422 (12) The department shall require all certified school
423 personnel to participate in continuing education training
424 programs provided by the Department of Children and Family
425 Services relating to the identifying and reporting of child
426 abuse and neglect.

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