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LEGISLATIVE ACTION

Senate	.	House
Comm: RS	.	
04/09/2013	.	
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The Committee on Judiciary (Latvala) recommended the following:

Senate Amendment (with title amendment)

Between lines 161 and 162

insert:

Section 4. Section 985.702, Florida Statutes, is created to read:

985.702 Malicious infliction of cruel or inhuman treatment prohibited; reporting required; penalties.-

(1) As used in this section, the term:

(a) "Employee" means a paid staff member, volunteer, or intern who works in a department program or a program operated by a provider under a contract with the department.

(b) "Juvenile offender" means any person of any age who is



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14 detained, or committed to the custody of, the department.

15 (c) "Neglect of a juvenile offender" means:

16 1. An employee's failure or omission to provide a juvenile
17 offender with the proper level of care, supervision, and
18 services necessary to maintain the juvenile offender's physical
19 and mental health, including, but not limited to, adequate food,
20 nutrition, clothing, shelter, supervision, medicine, and medical
21 services; or

22 2. An employee's failure to make a reasonable effort to
23 protect a juvenile offender from abuse, neglect, or exploitation
24 by another person.

25 (2) (a) Any employee who, with malicious intent, inflicts
26 cruel or inhuman treatment by neglect or otherwise, without
27 causing great bodily harm, permanent disability, or permanent
28 disfigurement to a juvenile offender, commits a misdemeanor of
29 the first degree, punishable as provided in s. 775.082 or s.
30 775.083.

31 (b) Any employee who, with malicious intent, inflicts cruel
32 or inhuman treatment by neglect or otherwise, and in so doing
33 causes great bodily harm, permanent disability, or permanent
34 disfigurement to a juvenile offender, commits a felony of the
35 third degree, punishable as provided in s. 775.082, s. 775.083,
36 or s. 775.084.

37 (c) Notwithstanding prosecution, any violation of paragraph
38 (a) or paragraph (b), as determined by the Public Employees
39 Relations Commission, constitutes sufficient cause under s.
40 110.227 for dismissal from employment with the department, and
41 such person may not again be employed in any capacity in
42 connection with the juvenile justice system.



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43 (3) An employee who witnesses the infliction of cruel or
44 inhuman treatment committed against a juvenile offender shall
45 immediately report the incident to the department's incident
46 hotline and prepare, date, and sign an independent report that
47 specifically describes the nature of the incident, the location
48 and time of the incident, and the persons involved. The employee
49 shall deliver the report to the employee's supervisor or program
50 director, who must provide copies to the department's inspector
51 general and the circuit juvenile justice manager. The inspector
52 general shall immediately conduct an appropriate administrative
53 investigation, and, if there is probable cause to believe that a
54 violation of subsection (2) has occurred, the inspector general
55 shall notify the state attorney in the circuit in which the
56 incident occurred.

57 (4) (a) Any person who is required to prepare a report under
58 this section who knowingly or willfully fails to do so, or who
59 knowingly or willfully prevents another person from doing so,
60 commits a misdemeanor of the first degree, punishable as
61 provided in s. 775.082 or s. 775.083.

62 (b) Any person who knowingly or willfully submits
63 inaccurate, incomplete, or untruthful information with respect
64 to a report required under this section commits a misdemeanor of
65 the first degree, punishable as provided in s. 775.082 or s.
66 775.083.

67 (c) Any person who knowingly or willfully coerces or
68 threatens any other person with the intent to alter testimony or
69 a written report regarding an incident of the infliction of
70 cruel or inhuman treatment commits a felony of the third degree,
71 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.



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72 Section 5. Paragraph (a) of subsection (1) of section
73 985.701, Florida Statutes, is amended to read:

74 985.701 Sexual misconduct prohibited; reporting required;
75 penalties.—

76 (1)(a)1. As used in this subsection, the term:

77 a. "Sexual misconduct" means fondling the genital area,
78 groin, inner thighs, buttocks, or breasts of a person; the oral,
79 anal, or vaginal penetration by or union with the sexual organ
80 of another; or the anal or vaginal penetration of another by any
81 other object. The term does not include an act done for a bona
82 fide medical purpose or an internal search conducted in the
83 lawful performance of duty by an employee of the department or
84 an employee of a provider under contract with the department.

85 b. "Employee" includes paid staff members, volunteers, and
86 interns who work in a department program or a program operated
87 by a provider under a contract.

88 c. "Juvenile offender" means a person of any age who is
89 detained or supervised by, or committed to the custody of, the
90 department.

91 2. An employee who engages in sexual misconduct with a
92 juvenile offender detained or supervised by, or committed to the
93 custody of, the department commits a felony of the second
94 degree, punishable as provided in s. 775.082, s. 775.083, or s.
95 775.084. An employee may be found guilty of violating this
96 subsection without having committed the crime of sexual battery.

97 3. The consent of the juvenile offender to any act of
98 sexual misconduct is not a defense to prosecution under this
99 subsection.

100 4. This subsection does not apply to an employee of the



101 department, or an employee of a provider under contract with the
102 department, who:

103 a. Is legally married to a juvenile offender who is
104 detained or supervised by, or committed to the custody of, the
105 department.

106 b. Has no reason to believe that the person with whom the
107 employee engaged in sexual misconduct is a juvenile offender
108 detained or supervised by, or committed to the custody of, the
109 department.

110
111 ===== T I T L E A M E N D M E N T =====

112 And the title is amended as follows:

113 Delete line 12

114 and insert:

115 creating s. 985.702, F.S.; providing definitions;
116 providing for the imposition of criminal penalties
117 against specified employees who inflict cruel or
118 inhuman treatment upon juvenile offenders; providing
119 enhanced penalties for such treatment that results in
120 great bodily harm, permanent disability, or permanent
121 disfigurement to a juvenile offender; specifying that
122 such conduct constitutes sufficient cause for an
123 employee's dismissal from employment; prohibiting such
124 employee from future employment with the juvenile
125 justice system; providing incident reporting
126 requirements; prohibiting an employee who witnesses
127 such an incident from knowingly or willfully failing
128 to report; prohibiting false reporting, preventing
129 another from reporting, or coercing another to alter



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130 testimony or reports; providing penalties; amending s.
131 985.701, F.S.; defining the term "juvenile offender"
132 for purposes of prohibiting sexual misconduct with
133 juvenile offenders; providing an effective date.