



913538

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/09/2013	.	
	.	
	.	
	.	

---

The Committee on Judiciary (Latvala) recommended the following:

1           **Senate Substitute for Amendment (661546) (with title**  
2 **amendment)**

3  
4           Between lines 161 and 162  
5 insert:

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

8           985.702 Malicious infliction of cruel or inhuman treatment  
9 prohibited; reporting required; penalties.-

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

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



913538

14           (b) "Juvenile offender" means any person of any age who is  
15 detained, or committed to the custody of, the department.

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

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

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

26           (2) (a) Any employee who, with malicious intent, inflicts  
27 cruel or inhuman treatment by neglect or otherwise, without  
28 causing great bodily harm, permanent disability, or permanent  
29 disfigurement to a juvenile offender, commits a misdemeanor of  
30 the first degree, punishable as provided in s. 775.082 or s.  
31 775.083.

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

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



913538

43 connection with the juvenile justice system.

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

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

63 (b) Any person who knowingly or willfully submits  
64 inaccurate, incomplete, or untruthful information with respect  
65 to a report required under this section commits a misdemeanor of  
66 the first degree, punishable as provided in s. 775.082 or s.  
67 775.083.

68 (c) Any person who knowingly or willfully coerces or  
69 threatens any other person with the intent to alter testimony or  
70 a written report regarding an incident of the infliction of  
71 cruel or inhuman treatment commits a felony of the third degree,



913538

72 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

73 Section 5. Paragraph (a) of subsection (1) of section  
74 985.701, Florida Statutes, is amended to read:

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

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

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

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

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

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

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



913538

101           4. This subsection does not apply to an employee of the  
102 department, or an employee of a provider under contract with the  
103 department, who:

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

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

111

112 ===== T I T L E   A M E N D M E N T =====

113 And the title is amended as follows:

114           Delete line 12

115 and insert:

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



913538

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