

By the Committee on Criminal Justice; and Senator Evers

591-02198-13

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1 A bill to be entitled
2 An act relating to juvenile justice; creating s.
3 985.702, F.S.; providing definitions; providing for
4 the imposition of criminal penalties against specified
5 employees who inflict cruel or inhuman treatment upon
6 juvenile offenders; providing enhanced penalties for
7 such treatment that results in great bodily harm,
8 permanent disability, or permanent disfigurement to a
9 juvenile offender; specifying that such conduct
10 constitutes sufficient cause for an employee's
11 dismissal from employment; prohibiting such employee
12 from future employment with the juvenile justice
13 system; providing incident reporting requirements;
14 prohibiting an employee who witnesses such an incident
15 from knowingly or willfully failing to report;
16 prohibiting false reporting, preventing another from
17 reporting, or coercing another to alter testimony or
18 reports; providing penalties; amending s. 985.701,
19 F.S.; defining the term "juvenile offender" for
20 purposes of prohibiting sexual misconduct with
21 juvenile offenders; providing an effective date.

22
23 Be It Enacted by the Legislature of the State of Florida:

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25 Section 1. Section 985.702, Florida Statutes, is created to
26 read:

27 985.702 Malicious infliction of cruel or inhuman treatment
28 prohibited; reporting required; penalties.-

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

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

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

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

36 1. An employee's failure or omission to provide a juvenile
37 offender with the proper level of care, supervision, and
38 services necessary to maintain the juvenile offender's physical
39 and mental health, including, but not limited to, adequate food,
40 nutrition, clothing, shelter, supervision, medicine, and medical
41 services; or

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

45 (2) (a) Any employee who, with malicious intent, inflicts
46 cruel or inhuman treatment by neglect or otherwise, without
47 causing great bodily harm, permanent disability, or permanent
48 disfigurement to a juvenile offender, commits a misdemeanor of
49 the first degree, punishable as provided in s. 775.082 or s.
50 775.083.

51 (b) Any employee who, with malicious intent, inflicts cruel
52 or inhuman treatment by neglect or otherwise, and in so doing
53 causes great bodily harm, permanent disability, or permanent
54 disfigurement to a juvenile offender, commits a felony of the
55 third degree, punishable as provided in s. 775.082, s. 775.083,
56 or s. 775.084.

57 (c) Notwithstanding prosecution, any violation of paragraph
58 (a) or paragraph (b), as determined by the Public Employees

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59 Relations Commission, constitutes sufficient cause under s.
60 110.227 for dismissal from employment with the department, and
61 such person may not again be employed in any capacity in
62 connection with the juvenile justice system.

63 (3) An employee who witnesses the infliction of cruel or
64 inhuman treatment committed against a juvenile offender shall
65 immediately report the incident to the department's incident
66 hotline and prepare, date, and sign an independent report that
67 specifically describes the nature of the incident, the location
68 and time of the incident, and the persons involved. The employee
69 shall deliver the report to the employee's supervisor or program
70 director, who must provide copies to the department's inspector
71 general and the circuit juvenile justice manager. The inspector
72 general shall immediately conduct an appropriate administrative
73 investigation, and, if there is probable cause to believe that a
74 violation of subsection (2) has occurred, the inspector general
75 shall notify the state attorney in the circuit in which the
76 incident occurred.

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

82 (b) Any person who knowingly or willfully submits
83 inaccurate, incomplete, or untruthful information with respect
84 to a report required under this section commits a misdemeanor of
85 the first degree, punishable as provided in s. 775.082 or s.
86 775.083.

87 (c) Any person who knowingly or willfully coerces or

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88 threatens any other person with the intent to alter testimony or
89 a written report regarding an incident of the infliction of
90 cruel or inhuman treatment commits a felony of the third degree,
91 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

92 Section 2. Paragraph (a) of subsection (1) of section
93 985.701, Florida Statutes, is amended to read:

94 985.701 Sexual misconduct prohibited; reporting required;
95 penalties.—

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

97 a. "Sexual misconduct" means fondling the genital area,
98 groin, inner thighs, buttocks, or breasts of a person; the oral,
99 anal, or vaginal penetration by or union with the sexual organ
100 of another; or the anal or vaginal penetration of another by any
101 other object. The term does not include an act done for a bona
102 fide medical purpose or an internal search conducted in the
103 lawful performance of duty by an employee of the department or
104 an employee of a provider under contract with the department.

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

108 c. "Juvenile offender" means a person of any age who is
109 detained or supervised by, or committed to the custody of, the
110 department.

111 2. An employee who engages in sexual misconduct with a
112 juvenile offender detained or supervised by, or committed to the
113 custody of, the department commits a felony of the second
114 degree, punishable as provided in s. 775.082, s. 775.083, or s.
115 775.084. An employee may be found guilty of violating this
116 subsection without having committed the crime of sexual battery.

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117 3. The consent of the juvenile offender to any act of
118 sexual misconduct is not a defense to prosecution under this
119 subsection.

120 4. This subsection does not apply to an employee of the
121 department, or an employee of a provider under contract with the
122 department, who:

123 a. Is legally married to a juvenile offender who is
124 detained or supervised by, or committed to the custody of, the
125 department.

126 b. Has no reason to believe that the person with whom the
127 employee engaged in sexual misconduct is a juvenile offender
128 detained or supervised by, or committed to the custody of, the
129 department.

130 Section 3. This act shall take effect upon becoming a law.