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LEGISLATIVE ACTION

Senate

House

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Floor: WD/3R

04/26/2013 12:45 PM

Senator Abruzzo moved the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Paragraph (h) is added to subsection (1) of
section 39.201, Florida Statutes, to read:

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

(1)

(h) The hotline shall accept reports of convictions
required by s. 775.235.

Section 2. Subsection (1) and paragraph (c) of subsection
(9) of section 39.301, Florida Statutes, are amended to read:



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14 39.301 Initiation of protective investigations.-

15 (1) (a) Upon receiving a report of known or suspected child
16 abuse, abandonment, or neglect, or that a child is in need of
17 supervision and care and has no parent, legal custodian, or
18 responsible adult relative immediately known and available to
19 provide supervision and care, or that a child may be in danger
20 because of his or her relationship to a sexual offender, the
21 central abuse hotline shall determine if the report requires an
22 immediate onsite protective investigation. For reports requiring
23 an immediate onsite protective investigation, the central abuse
24 hotline shall immediately notify the department's designated
25 district staff responsible for protective investigations to
26 ensure that an onsite investigation is promptly initiated. For
27 reports not requiring an immediate onsite protective
28 investigation, the central abuse hotline shall notify the
29 department's designated district staff responsible for
30 protective investigations in sufficient time to allow for an
31 investigation. At the time of notification, the central abuse
32 hotline shall also provide information to district staff on any
33 previous report concerning a subject of the present report or
34 any pertinent information relative to the present report or any
35 noted earlier reports.

36 (b) Upon receiving a report of a conviction of a qualifying
37 offense, as required by s. 775.235, the department shall
38 determine whether the convicted person has regular contact with
39 any child and, if so, the department shall open a protective
40 investigation to determine whether the child is in need of
41 services or whether termination of parental rights is warranted.

42 (9)



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43 (c) For each report received from the central abuse
44 hotline, the department or the sheriff providing child
45 protective investigative services under s. 39.3065, shall
46 determine the protective, treatment, and ameliorative services
47 necessary to safeguard and ensure the child's safety and well-
48 being and development, and cause the delivery of those services
49 through the early intervention of the department or its agent.
50 As applicable, child protective investigators must inform
51 parents and caregivers how and when to use the injunction
52 process under s. 741.30 to remove a perpetrator of domestic
53 violence from the home as an intervention to protect the child.

54 1. If the department or the sheriff providing child
55 protective investigative services determines that the interests
56 of the child and the public will be best served by providing the
57 child care or other treatment voluntarily accepted by the child
58 and the parents or legal custodians, the parent or legal
59 custodian and child may be referred for such care, case
60 management, or other community resources.

61 2. If the department or the sheriff providing child
62 protective investigative services determines that the child is
63 in need of protection and supervision, the department may file a
64 petition for dependency.

65 3. If a petition for dependency is not being filed by the
66 department, the person or agency originating the report shall be
67 advised of the right to file a petition pursuant to this part.

68 4. At the close of an investigation, the department or the
69 sheriff providing child protective services shall provide to the
70 person who is alleged to have caused the abuse, neglect, or
71 abandonment and the parent or legal custodian a summary of



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72 findings from the investigation and provide information about
73 their right to access confidential reports in accordance with s.
74 39.202.

75 5. Subparagraphs 3. and 4. shall not apply to
76 investigations initiated pursuant to s. 775.235.

77 Section 3. Paragraphs (m) and (n) are added to subsection
78 (1) of section 39.806, Florida Statutes, and subsection (2) of
79 that section is amended, to read:

80 39.806 Grounds for termination of parental rights.—

81 (1) Grounds for the termination of parental rights may be
82 established under any of the following circumstances:

83 (m) The court determines by clear and convincing evidence
84 that the child was conceived as a result of an act of sexual
85 battery made unlawful pursuant to s. 794.011, or pursuant to a
86 similar law of another state, territory, possession, or Native
87 American tribe where the offense occurred. It is presumed that
88 termination of parental rights is in the best interest of the
89 child if the child was conceived as a result of the unlawful
90 sexual battery. A petition for termination of parental rights
91 under this paragraph may be filed at any time. The court must
92 accept a guilty plea or conviction of unlawful sexual battery
93 pursuant to s. 794.011 as conclusive proof that the child was
94 conceived by a violation of criminal law as set forth in this
95 subsection.

96 (n) The court determines that the parent has been convicted
97 of a qualifying sexual offense described in s. 775.235 and after
98 examination of the facts underlying the conviction the court
99 finds by clear and convincing evidence that the continuing
100 involvement of the parent in the parent-child relationship



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101 threatens the life, safety, well-being, or physical, mental, or
102 emotional health of the child irrespective of the provision of
103 services.

104 (2) Reasonable efforts to preserve and reunify families are
105 not required if a court of competent jurisdiction has determined
106 that any of the events or circumstances described in paragraphs
107 (1) (b)-(d) or paragraphs (1) (f)-(n) ~~(f)-(l)~~ have occurred.

108 Section 4. Subsection (6) of section 39.811, Florida
109 Statutes, is amended to read:

110 39.811 Powers of disposition; order of disposition.—

111 (6) The parental rights of one parent may be severed
112 without severing the parental rights of the other parent only
113 under the following circumstances:

114 (a) If the child has only one surviving parent;

115 (b) If the identity of a prospective parent has been
116 established as unknown after sworn testimony;

117 (c) If the parent whose rights are being terminated became
118 a parent through a single-parent adoption;

119 (d) If the protection of the child demands termination of
120 the rights of a single parent; or

121 (e) If the parent whose rights are being terminated meets
122 any of the criteria specified in s. 39.806(1) (d) and (f)-(n)
123 ~~(f)-(l)~~.

124 Section 5. Section 775.235, Florida Statutes, is created to
125 read:

126 775.235 Mandatory reporting of certain offenses.—

127 (1) For purposes of this section and sections 39.301 and
128 39.806, the term "qualifying sexual offense" shall mean any
129 violation of s. 787.01(3) (a), 787.02(3) (a), 787.06(3) (b),



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130 787.06(3)(d), 787.06(3)(f), 787.06(3)(g), 787.06(3)(h), 794.011
131 other than 794.011(10), 796.03, 796.035, 800.04(4)(b), 827.071,
132 847.0135 other than 847.0135(6), 847.0145, or 985.701(1).

133 (2) Within 5 days of the entry of a conviction for a
134 qualifying offense, the clerk shall give notice of the
135 conviction to the central abuse hotline operated by the
136 Department of Children and Families pursuant to ch. 39. The form
137 of notification shall be as directed by the department, which
138 may be by written, electronic or verbal.

139 Section 6. If any provision of this act or its application
140 to any particular person or circumstance is held invalid, that
141 provision or its application is severable and does not affect
142 the validity of other provisions or applications of this act.

143 Section 7. This act shall take effect July 1, 2013.
144 Sections 3 and 4 apply to all unlawful acts of sexual battery
145 occurring before, on, or after that date. The remainder of the
146 bill applies to convictions occurring on or after that date.

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

148 And the title is amended as follows:

149 Delete everything before the enacting clause
150 and insert:

151 A bill to be entitled
152 An act relating to sexual offenders; amending s.
153 39.201, F.S.; requiring the state child abuse hotline
154 to accept a report of a conviction of certain sexual
155 offenses; amending s. 39.301, F.S.; requiring a child
156 abuse investigation to be initiated upon certain
157 reports of a conviction of a qualifying sexual
158 offense; amending s. 39.806, F.S.; providing that a



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159 parent's rights may be terminated if the court
160 determines, by clear and convincing evidence, that the
161 child was conceived during an act of unlawful sexual
162 battery; creating a presumption that termination of
163 parental rights is in the best interest of the child
164 if the child was conceived as a result of an unlawful
165 sexual battery; requiring the court to accept a guilty
166 plea or conviction as conclusive proof that the child
167 was conceived by a violation of criminal law;
168 providing that a petition to terminate parental rights
169 related to sexual assault may be filed at any time;
170 providing for termination of parental rights after
171 conviction of certain sexual offenses upon a finding
172 of harm to the child; amending s. 39.811, F.S.;
173 providing for termination of parental rights of only
174 one parent if conception was the result of an unlawful
175 sexual battery; providing for retroactive application;
176 limiting consideration of reunification in certain
177 actions for termination of parental rights; creating
178 s. 775.235, F.S.; defining the term qualifying sexual
179 offense; requiring the clerk of court to report
180 certain convictions to the state child abuse hotline;
181 providing an effective date providing an effective
182 date.