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1 A bill to be entitled

2 An act relating to child protection; amending s.  
3 39.2015, F.S.; providing requirements for the  
4 representation of Children's Medical Services on  
5 multiagency teams investigating certain child deaths  
6 or other serious incidents; amending s. 39.303, F.S.;  
7 requiring the Statewide Medical Director for Child  
8 Protection and the district medical directors to hold  
9 certain qualifications; amending s. 768.28, F.S.;  
10 specifying that that child protection team members  
11 carrying out their duties are covered by state  
12 sovereign immunity provisions; amending s. 827.03,  
13 F.S.; deleting a requirement that out-of-state  
14 physicians obtain a specified certificate to provide  
15 expert testimony in criminal child abuse cases  
16 regarding mental injuries; reenacting ss. 39.3031 and  
17 391.026(2), F.S., relating to child protection teams,  
18 to incorporate the amendments made by the act to s.  
19 39.303, F.S., in references thereto; providing an  
20 effective date.

21  
22 Be It Enacted by the Legislature of the State of Florida:

23  
24 Section 1. Subsection (3) of section 39.2015, Florida  
25 Statutes, is amended to read:

26 39.2015 Critical incident rapid response team.—

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27 (3) Each investigation shall be conducted by a multiagency  
28 team of at least five professionals with expertise in child  
29 protection, child welfare, and organizational management. The  
30 team may consist of employees of the department, community-based  
31 care lead agencies, Children's Medical Services, to include, at  
32 a minimum, the local child protection team medical director, and  
33 community-based care provider organizations; faculty from the  
34 institute consisting of public and private universities offering  
35 degrees in social work established pursuant to s. 1004.615; or  
36 any other person with the required expertise. The majority of  
37 the team must reside in judicial circuits outside the location  
38 of the incident. The secretary shall appoint a team leader for  
39 each group assigned to an investigation.

40 Section 2. Section 39.303, Florida Statutes, is amended to  
41 read:

42 39.303 Child protection teams; services; eligible cases.—  
43 The Children's Medical Services Program in the Department of  
44 Health shall develop, maintain, and coordinate the services of  
45 one or more multidisciplinary child protection teams in each of  
46 the service districts of the Department of Children and  
47 Families. Such teams may be composed of appropriate  
48 representatives of school districts and appropriate health,  
49 mental health, social service, legal service, and law  
50 enforcement agencies. The Department of Health and the  
51 Department of Children and Families shall maintain an  
52 interagency agreement that establishes protocols for oversight

53 and operations of child protection teams and sexual abuse  
54 treatment programs. The State Surgeon General and the Deputy  
55 Secretary for Children's Medical Services, in consultation with  
56 the Secretary of Children and Families, shall maintain the  
57 responsibility for the screening, employment, and, if necessary,  
58 the termination of child protection team medical directors, at  
59 headquarters and in the 15 districts. The Statewide Medical  
60 Director for Child Protection must be a physician licensed under  
61 chapter 458 or chapter 459 who is a board-certified pediatrician  
62 with a subspecialty certification in child abuse from the  
63 American Board of Pediatrics. Each district medical director  
64 must be a physician licensed under chapter 458 or chapter 459  
65 who is a board-certified pediatrician and, within 2 years after  
66 the date of his or her employment as district medical director,  
67 obtains a subspecialty certification in child abuse from the  
68 American Board of Pediatrics or a certificate issued by the  
69 Deputy Secretary for Children's Medical Services in recognition  
70 of demonstrated specialized competence in child abuse. Child  
71 protection team medical directors shall be responsible for  
72 oversight of the teams in the districts.

73 (1) The Department of Health shall use and convene the  
74 teams to supplement the assessment and protective supervision  
75 activities of the family safety and preservation program of the  
76 Department of Children and Families. This section does not  
77 remove or reduce the duty and responsibility of any person to  
78 report pursuant to this chapter all suspected or actual cases of

79 child abuse, abandonment, or neglect or sexual abuse of a child.  
80 The role of the teams shall be to support activities of the  
81 program and to provide services deemed by the teams to be  
82 necessary and appropriate to abused, abandoned, and neglected  
83 children upon referral. The specialized diagnostic assessment,  
84 evaluation, coordination, consultation, and other supportive  
85 services that a child protection team shall be capable of  
86 providing include, but are not limited to, the following:

87 (a) Medical diagnosis and evaluation services, including  
88 provision or interpretation of X rays and laboratory tests, and  
89 related services, as needed, and documentation of related  
90 findings.

91 (b) Telephone consultation services in emergencies and in  
92 other situations.

93 (c) Medical evaluation related to abuse, abandonment, or  
94 neglect, as defined by policy or rule of the Department of  
95 Health.

96 (d) Such psychological and psychiatric diagnosis and  
97 evaluation services for the child or the child's parent or  
98 parents, legal custodian or custodians, or other caregivers, or  
99 any other individual involved in a child abuse, abandonment, or  
100 neglect case, as the team may determine to be needed.

101 (e) Expert medical, psychological, and related  
102 professional testimony in court cases.

103 (f) Case staffings to develop treatment plans for children  
104 whose cases have been referred to the team. A child protection

105 team may provide consultation with respect to a child who is  
106 alleged or is shown to be abused, abandoned, or neglected, which  
107 consultation shall be provided at the request of a  
108 representative of the family safety and preservation program or  
109 at the request of any other professional involved with a child  
110 or the child's parent or parents, legal custodian or custodians,  
111 or other caregivers. In every such child protection team case  
112 staffing, consultation, or staff activity involving a child, a  
113 family safety and preservation program representative shall  
114 attend and participate.

115 (g) Case service coordination and assistance, including  
116 the location of services available from other public and private  
117 agencies in the community.

118 (h) Such training services for program and other employees  
119 of the Department of Children and Families, employees of the  
120 Department of Health, and other medical professionals as is  
121 deemed appropriate to enable them to develop and maintain their  
122 professional skills and abilities in handling child abuse,  
123 abandonment, and neglect cases.

124 (i) Educational and community awareness campaigns on child  
125 abuse, abandonment, and neglect in an effort to enable citizens  
126 more successfully to prevent, identify, and treat child abuse,  
127 abandonment, and neglect in the community.

128 (j) Child protection team assessments that include, as  
129 appropriate, medical evaluations, medical consultations, family  
130 psychosocial interviews, specialized clinical interviews, or

131 forensic interviews.

132

133 All medical personnel participating on a child protection team  
134 must successfully complete the required child protection team  
135 training curriculum as set forth in protocols determined by the  
136 Deputy Secretary for Children's Medical Services and the  
137 Statewide Medical Director for Child Protection. A child  
138 protection team that is evaluating a report of medical neglect  
139 and assessing the health care needs of a medically complex child  
140 shall consult with a physician who has experience in treating  
141 children with the same condition.

142 (2) The child abuse, abandonment, and neglect reports that  
143 must be referred by the department to child protection teams of  
144 the Department of Health for an assessment and other appropriate  
145 available support services as set forth in subsection (1) must  
146 include cases involving:

147 (a) Injuries to the head, bruises to the neck or head,  
148 burns, or fractures in a child of any age.

149 (b) Bruises anywhere on a child 5 years of age or under.

150 (c) Any report alleging sexual abuse of a child.

151 (d) Any sexually transmitted disease in a prepubescent  
152 child.

153 (e) Reported malnutrition of a child and failure of a  
154 child to thrive.

155 (f) Reported medical neglect of a child.

156 (g) Any family in which one or more children have been

157 | pronounced dead on arrival at a hospital or other health care  
158 | facility, or have been injured and later died, as a result of  
159 | suspected abuse, abandonment, or neglect, when any sibling or  
160 | other child remains in the home.

161 |       (h) Symptoms of serious emotional problems in a child when  
162 | emotional or other abuse, abandonment, or neglect is suspected.

163 |       (3) All abuse and neglect cases transmitted for  
164 | investigation to a district by the hotline must be  
165 | simultaneously transmitted to the Department of Health child  
166 | protection team for review. For the purpose of determining  
167 | whether face-to-face medical evaluation by a child protection  
168 | team is necessary, all cases transmitted to the child protection  
169 | team which meet the criteria in subsection (2) must be timely  
170 | reviewed by:

171 |       (a) A physician licensed under chapter 458 or chapter 459  
172 | who holds board certification in pediatrics and is a member of a  
173 | child protection team;

174 |       (b) A physician licensed under chapter 458 or chapter 459  
175 | who holds board certification in a specialty other than  
176 | pediatrics, who may complete the review only when working under  
177 | the direction of a physician licensed under chapter 458 or  
178 | chapter 459 who holds board certification in pediatrics and is a  
179 | member of a child protection team;

180 |       (c) An advanced registered nurse practitioner licensed  
181 | under chapter 464 who has a specialty in pediatrics or family  
182 | medicine and is a member of a child protection team;

183 (d) A physician assistant licensed under chapter 458 or  
184 chapter 459, who may complete the review only when working under  
185 the supervision of a physician licensed under chapter 458 or  
186 chapter 459 who holds board certification in pediatrics and is a  
187 member of a child protection team; or

188 (e) A registered nurse licensed under chapter 464, who may  
189 complete the review only when working under the direct  
190 supervision of a physician licensed under chapter 458 or chapter  
191 459 who holds certification in pediatrics and is a member of a  
192 child protection team.

193 (4) A face-to-face medical evaluation by a child  
194 protection team is not necessary when:

195 (a) The child was examined for the alleged abuse or  
196 neglect by a physician who is not a member of the child  
197 protection team, and a consultation between the child protection  
198 team board-certified pediatrician, advanced registered nurse  
199 practitioner, physician assistant working under the supervision  
200 of a child protection team board-certified pediatrician, or  
201 registered nurse working under the direct supervision of a child  
202 protection team board-certified pediatrician, and the examining  
203 physician concludes that a further medical evaluation is  
204 unnecessary;

205 (b) The child protective investigator, with supervisory  
206 approval, has determined, after conducting a child safety  
207 assessment, that there are no indications of injuries as  
208 described in paragraphs (2) (a)-(h) as reported; or



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209 (c) The child protection team board-certified  
210 pediatrician, as authorized in subsection (3), determines that a  
211 medical evaluation is not required.

212  
213 Notwithstanding paragraphs (a), (b), and (c), a child protection  
214 team pediatrician, as authorized in subsection (3), may  
215 determine that a face-to-face medical evaluation is necessary.

216 (5) In all instances in which a child protection team is  
217 providing certain services to abused, abandoned, or neglected  
218 children, other offices and units of the Department of Health,  
219 and offices and units of the Department of Children and  
220 Families, shall avoid duplicating the provision of those  
221 services.

222 (6) The Department of Health child protection team quality  
223 assurance program and the Family Safety Program Office of the  
224 Department of Children and Families shall collaborate to ensure  
225 referrals and responses to child abuse, abandonment, and neglect  
226 reports are appropriate. Each quality assurance program shall  
227 include a review of records in which there are no findings of  
228 abuse, abandonment, or neglect, and the findings of these  
229 reviews shall be included in each department's quality assurance  
230 reports.

231 Section 3. Paragraphs (a) and (b) of subsection (9) of  
232 section 768.28, Florida Statutes, are amended to read:

233 768.28 Waiver of sovereign immunity in tort actions;  
234 recovery limits; limitation on attorney fees; statute of

235 limitations; exclusions; indemnification; risk management  
236 programs.—

237 (9) (a) No officer, employee, or agent of the state or of  
238 any of its subdivisions shall be held personally liable in tort  
239 or named as a party defendant in any action for any injury or  
240 damage suffered as a result of any act, event, or omission of  
241 action in the scope of her or his employment or function, unless  
242 such officer, employee, or agent acted in bad faith or with  
243 malicious purpose or in a manner exhibiting wanton and willful  
244 disregard of human rights, safety, or property. However, such  
245 officer, employee, or agent shall be considered an adverse  
246 witness in a tort action for any injury or damage suffered as a  
247 result of any act, event, or omission of action in the scope of  
248 her or his employment or function. The exclusive remedy for  
249 injury or damage suffered as a result of an act, event, or  
250 omission of an officer, employee, or agent of the state or any  
251 of its subdivisions or constitutional officers shall be by  
252 action against the governmental entity, or the head of such  
253 entity in her or his official capacity, or the constitutional  
254 officer of which the officer, employee, or agent is an employee,  
255 unless such act or omission was committed in bad faith or with  
256 malicious purpose or in a manner exhibiting wanton and willful  
257 disregard of human rights, safety, or property. The state or its  
258 subdivisions shall not be liable in tort for the acts or  
259 omissions of an officer, employee, or agent committed while  
260 acting outside the course and scope of her or his employment or

261 committed in bad faith or with malicious purpose or in a manner  
262 exhibiting wanton and willful disregard of human rights, safety,  
263 or property.

264 (b) As used in this subsection, the term:

265 1. "Employee" includes any volunteer firefighter.

266 2. "Officer, employee, or agent" includes, but is not  
267 limited to, any health care provider when providing services  
268 pursuant to s. 766.1115; any nonprofit independent college or  
269 university located and chartered in this state which owns or  
270 operates an accredited medical school, and its employees or  
271 agents, when providing patient services pursuant to paragraph  
272 (10) (f); and any public defender or her or his employee or  
273 agent, including, among others, an assistant public defender and  
274 an investigator.

275 3. "Officer, employee, or agent" includes a member of a  
276 child protection team, as defined in s. 39.01, when carrying out  
277 his or her duties as a team member.

278 Section 4. Paragraph (b) of subsection (3) of section  
279 827.03, Florida Statutes, is amended to read:

280 827.03 Abuse, aggravated abuse, and neglect of a child;  
281 penalties.—

282 (3) EXPERT TESTIMONY.—

283 (b) A physician may not provide expert testimony in a  
284 criminal child abuse case regarding mental injury unless the  
285 physician is a physician licensed under chapter 458 or chapter  
286 459 or the corresponding laws of another state and who has

287 | completed an accredited residency in psychiatry ~~or has obtained~~  
288 | ~~certification as an expert witness pursuant to s. 458.3175.~~

289 |       Section 5. For the purpose of incorporating the amendments  
290 | made by this act to section 39.303, Florida Statutes, in a  
291 | reference thereto, section 39.3031, Florida Statutes, is  
292 | reenacted to read:

293 |       39.3031 Rules for implementation of s. 39.303.—The  
294 | Department of Health, in consultation with the Department of  
295 | Children and Families, shall adopt rules governing the child  
296 | protection teams pursuant to s. 39.303, including definitions,  
297 | organization, roles and responsibilities, eligibility, services  
298 | and their availability, qualifications of staff, and a waiver-  
299 | request process.

300 |       Section 6. For the purpose of incorporating the amendments  
301 | made by this act to section 39.303, Florida Statutes, in a  
302 | reference thereto, subsection (2) of section 391.026, Florida  
303 | Statutes, is reenacted to read:

304 |       391.026 Powers and duties of the department.—The  
305 | department shall have the following powers, duties, and  
306 | responsibilities:

307 |       (2) To provide services to abused and neglected children  
308 | through child protection teams pursuant to s. 39.303.

309 |       Section 7. This act shall take effect July 1, 2015.