

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

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Prepared By: The Professional Staff of the Committee on Children, Families, and Elder Affairs

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BILL: SB 1454

INTRODUCER: Senator Broxson

SUBJECT: Child Protection

DATE: March 24, 2017

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Preston	Hendon	CF	<b>Pre-meeting</b>
2.			AHS	
3.			AP	

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**I. Summary:**

SB 1454 amends current law relating to child protection teams, to require the Surgeon General and Deputy Secretary for Children’s Medical Services to consult with the Statewide Medical Director for Child Protection on decisions regarding screening, employment, and possible termination of child protection team (CPT) medical directors at headquarters and within the 15 districts statewide.

The bill requires the Children’s Medical Services (CMS) within the Department of Health (DOH) to convene a task force to develop a standardized protocol for forensic interviewing for children suspected of having been abused and provide staff to support the task force, as needed. The task force must include various representatives from the disciplines of law enforcement, child welfare, and mental health treatment. The bill requires DOH to provide the protocol to the legislature by January 1, 2018.

The bill expands the cases in which an expert witness certificate may be used, to include cases involving abandonment, dependency, and sexual abuse.

The bill does not have a fiscal impact on state government.

The bill provides an effective date of July 1, 2017.

**II. Present Situation:**

**Child Protection Teams**

A child protection team is a medically directed, multidisciplinary team that works with local Sheriff’s offices and the department in cases of child abuse and neglect to supplement

investigation activities.<sup>1</sup> Current law governs CPTs, and requires the Children's Medical Services Program in DOH to develop, maintain, and coordinate the services of the CPTs in each of the service districts of DCF. Child protection team medical directors are responsible for oversight of the teams.<sup>2</sup>

CPTs are independent, community-based programs that provide expertise in evaluating alleged child abuse and neglect. Specifically, CPTs help assess risk and protective factors, and provide recommendations for interventions that protect children.<sup>3</sup> Child abuse, abandonment, and neglect reports to the DCF central abuse hotline that must be referred to child protection teams include cases involving:

- Injuries to the head, bruises to the neck or head, burns, or fractures in a child of any age.
- Bruises anywhere on a child 5 years of age or younger.
- Any report alleging sexual abuse of a child.
- Any sexually transmitted disease in a prepubescent child.
- Reported malnutrition or failure of a child to thrive.
- Reported medical neglect of a child.
- A sibling or other child remaining in a home where one or more children have been - pronounced dead on arrival or have been injured and later died as a result of suspected abuse, abandonment, or neglect.
- Symptoms of serious emotional problems in a child when emotional or other abuse, abandonment, or neglect is suspected.<sup>4</sup>

Currently, the State Surgeon General and the Deputy Secretary for Children's Medical Services, in consultation with the Secretary of Children and Families, maintains the responsibility for the screening, employment, and, if necessary, the termination of child protection team medical directors, at headquarters and in the 15 districts.<sup>5</sup>

### **Forensic Interviewing of Child Victims**

Forensic interviewing began after several high-profile cases in the 1980s involving allegations of daycare providers sexually abusing multiple children in their care became the subject of analysis based on the interview techniques that were used.<sup>6</sup> Law enforcement had relied on mental health practitioners because of their ability to establish and build rapport with children. However, these mental health practitioners used therapeutic techniques that were later deemed inappropriate for

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<sup>1</sup> Children's Medical Services, Child Protection Teams, (Aug. 30, 2012) *available at*:

[http://www.floridahealth.gov/AlternateSites/CMS-Kids/families/child\\_protection\\_safety/child\\_protection\\_teams.html](http://www.floridahealth.gov/AlternateSites/CMS-Kids/families/child_protection_safety/child_protection_teams.html). (last visited March 20, 2017).

<sup>2</sup> Section 39.303, F.S.

<sup>3</sup> Children's Medical Services, Child Protection Team Brochure, *available at*:

[http://www.floridahealth.gov/AlternateSites/CMS-Kids/families/child\\_protection\\_safety/documents/child\\_protection\\_brochure.pdf](http://www.floridahealth.gov/AlternateSites/CMS-Kids/families/child_protection_safety/documents/child_protection_brochure.pdf). (last visited March 20, 2017).

<sup>4</sup> Section 39.303, F.S.

<sup>5</sup> *Id.*

<sup>6</sup> Walker, N., *Forensic Interviews of Children: The Components of Scientific Validity and Legal Admissibility*, 2002, *available at*: <http://scholarship.law.duke.edu/cgi/viewcontent.cgi?article=1241&context=lcp&sei-redir=1&referer=http%3A%2F%2Fwww.bing.com%2Fsearch%3Fq%3Dforensic%2Binterviewing%2Bchildren%26src%3DI-E-SearchBox%26FORM%3DIENSTR#search=%22forensic%20interviewing%20children%22>. (last visited March 23, 2017).

forensic purposes due to concerns of suggestibility and the encouragement of make-believe and pretend. Three specific criticisms of these methods were that:

- Investigation activities and decision-making were not coordinated across the multiple agencies involved;
- Children were interviewed too many times by too many interviewers and had to tell their story over and over again; and
- Children were interviewed in stressful or compromising locations that disturbed them further and made it difficult to talk.<sup>7</sup>

A forensic interview, however, is a structured conversation with a child intended to elicit detailed information about a possible event that the child may have experienced or witnessed. The purposes of a forensic interview are:

- To obtain information from a child that may be helpful in a criminal investigation;
- To assess the safety of the child's living arrangements;
- To obtain information that will either corroborate or refute allegations or suspicions of abuse and neglect; and
- To assess the need for medical treatment and psychological care.<sup>8</sup>

People from multiple disciplines attend, or later review, the interview: child protective investigators; police officers and other law enforcement officials; child protection attorneys; victim advocates; and medical and mental health care practitioners. The interview provides facts and direction for those involved with the investigation and provision of services.<sup>9</sup>

Child Advocacy Centers have taken the lead in the development of forensic interviewing protocols for children and one of their primary functions is to conduct forensic interviews in a non-threatening, child-friendly environment. Florida law provided standards for child advocacy centers in 1998<sup>10</sup> and Florida currently has 27 child advocacy centers that serve an estimated 85% of children statewide.<sup>11</sup>

The DOH reports that a variety of forensic interview protocols exist and vary from being very structured (scripted), less structured (semi-scripted) to flexible (not scripted but includes guidelines for interviewing). Agencies and entities providing forensic interviews can choose from a variety of well-known and established protocols, most of which provide structured training for forensic interviewers.<sup>12</sup> One of these existing protocols is the internationally recognized National Children's Advocacy Center Child Forensic Interview Structure that is flexible, can be adapted to children of all ages and cultural backgrounds, and is appropriate for

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<sup>7</sup> Cross, T., Jones, L., et al, *Child forensic interviewing in Children's Advocacy Centers: Empirical data on a practice model*, Child Abuse & Neglect 31 (2007), available from: <http://www.unh.edu/ccrc/pdf/cv108.pdf>. (last visited March 23, 2017).

<sup>8</sup> *Id.*

<sup>9</sup> U.S. Department of Justice, Office of Juvenile Justice and Delinquency Prevention, Juvenile Justice Bulletin, *Child Forensic Interviewing: Best Practices*, September 2015, available at: <https://www.ojjdp.gov/pubs/248749.pdf>. (last visited March 22, 2017).

<sup>10</sup> Chapter 98-403, F.S.

<sup>11</sup> Florida Network of Child Advocacy Centers, available at: <http://www.fncac.org/about-us>. (last visited March 23, 2017).

<sup>12</sup> Florida Department of Health, 2017 Agency Legislative Bill Analysis, SB 1454, March 6, 2017.

interviewing children who may have experienced sexual or physical abuse or who may be a witness to violence.<sup>13</sup>

### **Expert Witness Certificates and Expert Testimony in Child Abuse Cases**

Current law authorizes the DOH to issue a certificate authorizing a physician who holds an active and valid license to practice medicine or osteopathic medicine in another state or a province of Canada to provide expert testimony in this state, if the physician applies and pays for the certificate.<sup>14</sup> An expert witness certificate authorizes the physician to whom the certificate is issued to do only the following:

- Provide a verified written medical expert opinion as provided in s. 766.203;
- Provide expert testimony about the prevailing professional standard of care in connection with medical negligence litigation pending in this state against a physician licensed under chapter 458 or this chapter; and
- Provide expert testimony in criminal child abuse and neglect cases in this state.<sup>15</sup>

Currently, expert testimony requirements in chapter 827, relating to abuse of children that rises to the level of criminal abuse, are restricted only to criminal child abuse cases and not family or dependency court.<sup>16</sup>

### **III. Effect of Proposed Changes:**

**Section 1.** amends s 39.303, F.S., relating to child protection teams, to require the Surgeon General and Deputy Secretary for Children’s Medical Services to consult with the Statewide Medical Director for Child Protection on decisions regarding screening, employment, and possible termination of child protection team medical directors at headquarters and within the 15 districts statewide.

**Section 2** amends s. 458.3175, F.S., relating to expert witness certificates, to allow a physician who holds an active and valid license to practice medicine in another state or a province of Canada and holds an expert witness certificate to provide expert testimony in neglect, abandonment, dependency and sexual abuse cases.

**Section 3** amends s. 459.0066, F.S., relating to expert witness certificates, to allow a physician who holds an active and valid license to practice osteopathic medicine in another state or a province of Canada and holds an expert witness certificate to provide expert testimony in neglect, abandonment, dependency and sexual abuse cases.

**Section 4** amends s. 827.03, F.S., relating to abuse, aggravated abuse, and neglect of a child, to expand the expert testimony requirements of subsection (3) to include neglect, abandonment, dependency and sexual abuse cases.

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<sup>13</sup> National Child Advocacy Center, Forensic Interviewing of Children, available at: <http://www.nationalcac.org/forensic-interviewing-of-children-training/>. (last visited March 23, 2017).

<sup>14</sup> Sections 458.3175 and 459.0066, F.S.

<sup>15</sup> *Id.*

<sup>16</sup> Section 827.03, F.S.

**Section 5** creates an unnumbered section of statute, to require Children's Medical Services to convene a task force to develop a standardized protocol for conducting forensic interviews of children suspected of being victims of abuse. The DOH must report the protocol to the legislature by January 1, 2018.

**Section 6** provides an effective date of July 1, 2017.

**IV. Constitutional Issues:**

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

**V. Fiscal Impact Statement:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

- Florida has a broad network of Child Advocacy Centers that serve to conduct forensic interviews of children that may have been abused in a child-friendly environment. One of the most universally known forensic interview protocols was developed by the National Child Advocacy Center that is flexible, can be adapted to children of all ages and cultural backgrounds, and is appropriate for interviewing children who may have experienced sexual or physical abuse or who may be a witness to violence. DOH reports that a variety of forensic interview protocols exist and vary from being very structured (scripted), less structured (semi-scripted) to flexible (not scripted but includes guidelines for interviewing).

Agencies and entities providing forensic interviews can choose from a variety of well-known and established protocols, most of which provide structured training for forensic interviewers. It is unclear why there is a need for a task force to create a new protocol.

Also, the bill doesn't require implementation of the new protocol once it has been developed.

The new language on lines 54, 62 and 84-85 is unclear. For better clarity, it could read:

Provide expert testimony in criminal child abuse and 319 neglect cases pursuant to ch. 827, dependency cases pursuant to 320 ch. 39, and cases involving sexual battery of a child pursuant 321 to ch. 794 in this state

Also, chapter 827 of the Florida Statutes, is a criminal statute so it's unclear why dependency cases would be added to a criminal statute. Dependency cases are non-criminal proceedings for children who have been abused, abandoned or neglected. Finally, Children's Legal Services in the Department of Children and Families is not aware of a problem in dependency cases that require the amendments in sections 2, 3, and 4 of SB 1454.

#### **VIII. Statutes Affected:**

The bill substantially amends ss. 39.303, 458.3175, 459.0066 and 827.03 of the Florida Statutes. This bill creates an unnumbered section of the Florida Statutes.

#### **IX. Additional Information:**

**A. Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

**B. Amendments:**

None.