

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 179 Child Abuse
SPONSOR(S): Byrd
TIED BILLS: **IDEN./SIM. BILLS:** SB 128

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Children, Families & Seniors Subcommittee	13 Y, 0 N	Christy	Brazzell
2) Health Care Appropriations Subcommittee			
3) Health & Human Services Committee			

SUMMARY ANALYSIS

To protect Florida's children from child abuse, abandonment, or neglect, the Department of Children and Families (DCF or department) operates the Florida central abuse hotline (hotline), which accepts reports 24 hours a day, 7 days a week. Any person who knows or suspects that a child is abused, abandoned, or neglected by a parent, legal custodian, caregiver, or other person responsible for the child's welfare must report such information or suspicion to the hotline. If reports meet the statutory criteria for abuse, abandonment, or neglect, a child protective investigation is commenced.

A child protection team (CPT) is a medically directed, multidisciplinary team that supplements the child protective investigation efforts of the department and local sheriffs' offices in cases of child abuse or neglect.

Certain cases reported to the hotline must be referred to CPTs.

HB 179 expands the definition of "harm" to include situations where a parent fails to use a child restraint or seat belt required by law and such failure results in the child's injury or death. In these situations, a child protective investigation could be required if a physician, licensed under Ch. 458, F.S., substantiates that a parent's failure to use a child restraint or seat belt resulted in the child's injury or death.

The bill also requires the hotline to accept reports of child abuse or neglect that occurred out of the state but the child is currently being evaluated in a medical facility licensed by the state.

The bill also requires referral from DCF to CPTs in cases involving out-of-state children being evaluated in a medical facility licensed by the state and in cases where child restraint and seat belt violations contributed to a child's injury or death.

HB 179 has an insignificant, negative fiscal impact on DCF and the Department of Health. See fiscal comments.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

Child Welfare System

The child welfare system identifies families whose children are in danger of suffering or have suffered abuse, abandonment, or neglect and works with those families to address the problems that are endangering children, if possible. If the problems cannot be addressed, the child welfare system finds safe out-of-home placements for these children.

Florida Central Abuse Hotline

The Department of Children and Families (DCF or department) operates the Florida central abuse hotline (hotline), which accepts reports 24 hours a day, 7 days a week of known or suspected child abuse, abandonment, or neglect.¹ A child protective investigation begins with a report by any person to the hotline. Statute mandates any person who knows or suspects that a child is abused, abandoned, or neglected by a parent, legal custodian, caregiver, or other person responsible for the child's welfare, or that a child is in need of supervision and care and has no parent, legal custodian, or responsible adult relative immediately known and available to provide supervision and care, shall report such knowledge or suspicion to the hotline.²

Once the hotline obtains information from a reporter, the allegations of the report must meet the statutory definition required to trigger a child protective investigation by DCF or the sheriff's office, if the report is for a child in one of the seven counties where the sheriff's office conducts child protective investigations.³ For the report to be accepted for an investigation, there must be reasonable cause to believe that the child was harmed by abuse, abandonment, or neglect, or the child is at risk of harm.⁴

Under s. 39.01(35), F.S., "harm" to a child's health or welfare can occur when any person:

- Inflicts or allows to be inflicted upon the child physical, mental, or emotional injury, which include, but is not limited to, willful acts that produce specific injuries specified in statute.
- Purposely giving a child poison, alcohol, drugs, or other substance that substantially affect the child's behavior or that result in sickness or internal injury.
- Leaving a child without proper adult supervision.
- Inappropriate or excessively harsh disciplinary action that is likely to result in physical injury, mental injury, or emotional injury.
- Commits or allows to be committed, sexual battery or lewd or lascivious acts against the child.
- Allows, encourages, or forces the sexual exploitation of a child.
- Exploits a child or allows a child to be exploited as provided in s. 450.151, F.S.
- Abandons or neglects a child.
- Exposes the child to a controlled substance or alcohol.
- Uses mechanical devices, unreasonable restraints, or extended periods of isolation to control the child.
- Engages in violent behavior that demonstrates a wanton disregard for the presence of a child and could reasonably result in serious injury to the child.

¹ S. 39.201(5), F.S.

² S. 39.201(1) (a), F.S.

³ S. 39.201(2) (a), F.S.

⁴ S. 39.201(2), F.S.

- Negligently fails to protect a child in his or her care from physical, mental, or sexual injury caused by the acts of another.
- Has allowed a child's sibling to die as a result of abuse, abandonment, or neglect.
- Makes the child unavailable for a protective investigation unless fleeing from domestic violence.

If the allegations meet the statutory requirements for a child protective investigation, an investigation must be commenced either immediately or within 24 hours after the report is received, depending on the nature of the allegation.⁵

Under s. 39.201(2)(d), F.S., the hotline is prohibited from accepting reports when the alleged abuse, abandonment, or neglect occurred out-of-state and both the alleged perpetrator and child victim live out-of-state. However, the hotline will accept a report if the child is physically in Florida and the severity of alleged abuse or neglect reported creates a condition of threatened harm for the child while temporarily located in Florida.⁶ "Threatened harm" means a behavior that is not accidental and which is likely to result in harm to the child.⁷ These reports are accepted currently regardless of the child's location in Florida.⁸ If the threatened harm within Florida is not present, the caller will be transferred to the appropriate state or county authorities where the family has residency.⁹

Case Management and Child Welfare Services

If a child protective investigation results in verified findings of abuse or neglect, the child will receive a case plan and services are provided to the family to address the problems that are endangering the child. DCF contracts for case management, out-of-home care, and related services with lead agencies, also known as community-based care organizations (CBCs). The model of using CBCs to provide child welfare services is designed to increase local community ownership of service delivery and design.¹⁰

CBCs are responsible for providing foster care and related services. These services include, but are not limited to, counseling, domestic violence services, substance abuse services, family preservation, emergency shelter, and adoption.¹¹ The CBC must give priority to services that are evidence-based and trauma informed.¹² CBCs contract with a number of subcontractors for case management and direct care services to children and their families. There are 17 CBCs statewide, which together serve the state's 20 judicial circuits.¹³

Child Protection Teams

A child protection team (CPT) is a medically directed, multidisciplinary team that supplements the child protective investigation efforts of the department and local sheriffs' offices in cases of child abuse and neglect.¹⁴ CPTs are independent community-based programs contracted by the Department of Health (DOH) Children's Medical Services (CMS) program that provide expertise in evaluating alleged child abuse and neglect, assess risk and protective factors, and provide recommendations for interventions to protect children and enhance a caregiver's capacity to provide a safer environment when possible.¹⁵

⁵ *Supra* note 3.

⁶ Department of Children and Families, 2019 Agency Legislative Bill Analysis for HB 179.

⁷ R. 65C-30.001(121), F.A.C.

⁸ *Supra* note 6.

⁹ *Id.*

¹⁰ Department of Children and Families, *Community-Based Care*, <http://www.dcf.state.fl.us/service-programs/community-based-care/> (last visited Feb. 27, 2019).

¹¹ *Id.*

¹² S. 409.988, F.S.

¹³ Department of Children and Families, *Community Based Care Lead Agency Map*, <http://www.myflfamilies.com/service-programs/community-based-care/cbc-map> (last visited Feb. 12, 2019).

¹⁴ Florida Department of Health, Children's Medical Services, *Child Protection Teams*, http://www.floridahealth.gov/AlternateSites/CMS-Kids/families/child_protection_safety/child_protection_teams.html (last visited Feb. 5, 2019).

¹⁵ *Id.*

CPTs across the state are divided into 15 districts and provide services to all 67 counties by utilizing satellite offices and telemedicine sites.¹⁶ Each of the 15 districts served by CPTs are supervised by one or multiple child protection team medical directors, depending on the size and subdivision of the particular district.¹⁷

Certain reports of child abuse, abandonment, and neglect to the hotline must be referred to CPTs:

- Injuries to the head, bruises to the neck or head, burns, or fractures in a child of any age.
- Bruises anywhere on a child five 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.¹⁸

When a CPT accepts a referral from DCF or law enforcement, it may provide one or more of the following services:

- Medical diagnosis and evaluation;
- Child forensic interviews;
- Child and family assessments;
- Multidisciplinary staffings;
- Psychological and psychiatric evaluations;
- Community awareness campaigns; and
- Expert court testimony.¹⁹

CPT staff also provide training services to child protective investigators, community providers of child welfare services, and emergency room staff and other medical providers in the community.²⁰

Child Restraint and Safety Belt Requirements

Florida law requires the use of seat belts and child restraint devices by drivers, all front seat passengers, and all children under the age of 18 riding in a vehicle.²¹ Florida's safety belt law is a primary offense in Florida, meaning an officer can pull over a vehicle and issue a citation for observing a safety belt or restraint violation.²²

Currently, the hotline accepts reports of children who are harmed due to the failure of a parent to use a child restraint required by law. These reports are accepted under the maltreatment of "inadequate supervision."²³ Previously, the department required two mitigating criteria for acceptance of the report:

¹⁶ Florida Department of Health, *Children's Medical Services Child Protection Teams*, (Mar. 30, 2018), <http://www.floridahealth.gov/alternatesites/cms-kids/home/contact/cpt.pdf> (last visited Feb. 21, 2019).

¹⁷ Id.

¹⁸ S. 39.303(4), F.S.

¹⁹ S. 39.303(3), F.S.

²⁰ S. 39.303(3)(h), F.S.

²¹ S. 316.614(4), F.S.

²² S. 318.14, F.S.

²³ Based on the department's operating procedures, "inadequate supervision" encompasses a parent or caregiver leaving a child without adult supervision or arrangement appropriate for the child's age, maturity, developmental level or mental or physical condition, so that the child is unable to care for the child's own needs or another's basic needs, or is unable to exercise sufficient judgment in responding to a physical or emotional crisis.

either the parent had to be cited for reckless driving or under the influence of drugs or alcohol, in addition to the child not being properly restrained. However, in 2018, the department updated its rules to allow investigations based solely on the parent's or legal guardian's failure to properly safeguard his or her child if the omission resulted in serious harm to or the death of the child.²⁴

State Laws – Child Restraint and Safety Belts

Under s. 316.613, F.S., the driver of a motor vehicle transporting a child age 5 and younger must properly use a crash-tested, federally approved child restraint device for the child. For children 0 to 3, such restraint device must be a separate carrier or a vehicle manufacturer's integrated child seat.²⁵

For children 4 to 5, a separate carrier, an integrated child seat, or a child booster seat may be used. However, the requirements to use a child restraint device for children 4 to 5 do not apply when a safety belt is being used and the child is being transported gratuitously by a driver who is not a member of the child's immediate family; is being transported in a medical emergency situation involving the child; or has a medical condition diagnosed by a health care professional that necessitates an exception.²⁶

Additionally, under s. 316.614, F.S., it is unlawful for any person to drive a motor vehicle or an autocycle in Florida unless the driver and each passenger under the age of 18 are restrained by a safety belt or by a child restraint device pursuant to s. 316.613, F.S.²⁷ The requirements of this section do not apply to vehicles that are not required to be equipped with safety belts under federal law.²⁸

Under both s. 316.613, F.S., and s. 316.14, F.S., a motor vehicle does not include a:

- school bus;
- hired bus for transportation, unless the bus is regularly used to transport children to or from school or in conjunction with school activities;
- farm tractor or implement of husbandry;
- truck having a gross vehicle weight rating of more than 26,000 pounds; or
- motorcycle, moped, or bicycle.²⁹

The child restraint requirements imposed by s. 316.613, F.S., do not apply to a chauffeur-driven taxi, limousine, sedan, van, bus, motor coach, or other passenger vehicle if the driver and the vehicle were hired and used for transportation.³⁰ It is the caregiver's responsibility to comply with the child restraint requirements in these situations.³¹

In 2017, there were 132,366 crashes in Florida involving children under the age of 18, and almost 50 percent of child passengers who died in a car crash were not wearing any type of restraint.³² Further, that same year, there were 8,574 citations given for no or improper child restraint device.³³

²⁴ R. 65C-39.002(6)(e)3, F.A.C

²⁵ S. 316.613(1)(a) 1, F.S.

²⁶ S. 316.613(1)(a) 2, F.S.

²⁷ S. 316.614(4), F.S.

²⁸ S. 316.614(6)(d), F.S.

²⁹ S. 316.613(2), F.S.

³⁰ S. 316.613(6), F.S.

³¹ Id.

³² Florida Department of Highway Safety and Motor Vehicles, *August is Child Safety Awareness Month*, (August 1, 2018), https://fcaap.org/wp-content/uploads/2018/08/8.1.18_ChildSafety_PressRelease_FINAL.pdf (last visited Mar. 4, 2019)

³³ Id.

Effect of Proposed Changes

Expanding the Definition of “Harm”

The bill amends s. 39.01(35), F.S., to also consider as “harm” any violations of child restraint requirements in s. 316.613, F.S., or seat belt requirements in s. 316.614, F.S., resulting in a child’s injury or death if a physician licensed under chapter 458 substantiates that the violation caused the child’s injury or death.

The bill is more comprehensive than the department’s current agency rule, because the bill encompasses *all* injuries due to violations of child restraint or seat belt requirements, not just those that are deemed serious, and thus could potentially result in an increased number of reports to the hotline and additional child protective investigations. CBCs and their subcontractors may be required to provide services to these children and families.

Out-of-State Child Abuse

The bill amends s. 39.201(2)(d), F.S., to require the hotline to accept reports of child abuse, abandonment, or neglect when a child from out-of-state is being evaluated in a medical facility. Under this provision, child protective investigations by Florida investigators would now be required for situations where the child is temporarily in the state and is being evaluated in a medical facility, possibly due to previous abuse or neglect, but there is not significant potential for abuse, abandonment, or neglect to actually occur in Florida and thus threatened harm does not exist.

This change may limit reports accepted by the hotline. Currently, the hotline accepts reports when a child is temporarily in Florida and there is threatened harm of child abuse, abandonment, or neglect to occur in Florida, regardless of the setting in which the child is located in Florida; however, the bill would limit reports accepted by the hotline to include only situations where a child is temporarily in Florida *and* is being evaluated in a medical facility. Therefore, the hotline would no longer accept reports for children in a situation of threatened harm who are in other settings in Florida.

Child Protection Teams

The bill amends s. 39.303, F.S., to require the following hotline reports to be referred to CPTs:

- A child who does not live in Florida but is currently being evaluated in a medical facility in the state; or
- A child who was not properly restrained in motor vehicle with a child restraint or seatbelt pursuant to ss. 316.613 or 316.614, F.S., and a physician licensed under Ch. 458, F.S., substantiates that the improper restraint resulted in the child’s injuries or death.

The CPTs will need to review the cases and provide services deemed to be necessary and appropriate. For referrals to CPTs for children who do not live in Florida but are being evaluated at a medical facility licensed by the state, the CPT will need to contact and support any potential investigations that occur in the child’s home state.

The term “medical facility” is not currently defined in statute.

B. SECTION DIRECTORY:

Section 1. Amends s. 39.01, F.S., relating to definitions.

Section 2. Amends s. 39.201, F.S., relating to mandatory reports of child abuse, abandonment, or neglect; mandatory reports of death; central abuse hotline.

Section 3. Amends s. 39.303, F.S., relating to child protection teams and sexual abuse treatment programs; eligible cases.

Section 4. Amends s. 39.302, F.S., relating to protective investigations of institutional child abuse, abandonment, or neglect.

Section 5. Amends s. 39.521, F.S., relating to disposition hearings; powers of disposition.

Section 6. Amends s. 39.6012, F.S., relating to case plan tasks; services.

Section 7. Provides an effective date of July 1, 2019.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

Expanding the Definition of Harm

By expanding the definition of “harm” to include safety belt and child restraint violations contributing to a child’s injury or death, child protective investigators would have a slightly increased workload.

Based on the FY 2017 Department and Highway Safety and Motor Vehicles data, there were 2,182 children injured due to improper use of a child restraint device or seat belt.

As of December 19, 2018, there were 1,343 total DCF child protective investigators, and their median caseload of active investigations was 14.5 cases.³⁴ If 75% of the cases where children were injured due to improper restraint or seat belt use met the new criteria for “harm” and were accepted for investigation by DCF investigators, there would be 1,637 additional child protective investigations, which would result in the workload per investigator to potentially increase by less than 1 investigation per year per investigator. If the Legislature were to fund additional investigators instead of DCF absorbing the workload, the cost of 7 additional child protective investigators (based on 1,343 additional investigations and 14.5 cases per investigator) and 1 supervisor would be \$641,891 recurring and \$53,148 nonrecurring.

Additionally, the Department of Health estimates that child protection teams would have an estimated increase of 1,500 reports per year for the program. This is based on the last five years of available data from the Department of Highway Safety and Motor Vehicles regarding the number of minors involved in vehicle crashes. For FY 2017-18, \$20,703,157 was allocated to the program and 27,253 children were served. Projecting approximately 1,500 children who would be referred to a child protection team based on the expanded definition of harm in the bill would be a 5.5% increase in the number of children requiring services.

Serving Out-of-State Children

There could potentially be an increase in workload for department hotline staff, child protection investigators, and child protection teams due to serving children who suffer abuse out-of-state but are being evaluated at a medical facility in Florida; however, it is not currently known how many out-

³⁴ Department of Children and Families, *Child Welfare Key Indicators Monthly Report*, (Jan. 2019), http://centerforchildwelfare.fmhi.usf.edu/qa/cwkeyindicator/KI_Monthly_Report_JAN_2019.pdf (last visited Mar. 3, 2019).

of-state children are being evaluated in a medical facility in Florida for abuse or neglect, thus the fiscal impact is indeterminate.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Expanding the Definition of Harm

Indeterminate. It is unknown how many investigations due to expanding the definition of "harm" to include safety belt and child restraint violations contributing to a child's injury or death would result in case management services being required. Therefore, the fiscal impact on the CBCs and their subcontractors' caseloads is indeterminate.

Serving Out-of-State Children

No economic impact on CBCs and their subcontractors is projected since case management would not be required for out-of-state children. Cases involving out-of-state children being evaluated in a medical facility in Florida would be transferred to the child's home state for potential child protection services.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not Applicable. This bill does not appear to require counties or municipalities to spend funds or take action requiring the expenditures of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

The bill limits the type of medical provider that is required to substantiate the violation of the child restraint or seatbelt that causes a child's injury or death to only physicians licensed under chapter 458. This would exclude Doctors of Osteopathic Medicine licensed under chapter 459, F.S.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES