

1                   A bill to be entitled  
2           An act relating to child abuse; amending s. 39.01,  
3           F.S.; expanding the definition of the term "harm" to  
4           include violations of motor vehicle child restraint  
5           laws that result in the injury or death of a child;  
6           amending s. 39.201, F.S.; requiring the central abuse  
7           hotline to accept certain reports or calls for  
8           investigation of children who do not live in this  
9           state or country; amending s. 39.303, F.S.; requiring  
10          the Department of Children and Families to report  
11          certain cases involving children who do not live in  
12          this state or country and children who are injured or  
13          die from being improperly restrained in a motor  
14          vehicle to Child Protection Teams; amending ss.  
15          39.302, 39.521, and 39.6012, F.S.; conforming cross-  
16          references; providing an effective date.

17  
18   Be It Enacted by the Legislature of the State of Florida:

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20          Section 1. Subsections (8) through (38) of section 39.01,  
21          Florida Statutes, are renumbered as subsections (7) through  
22          (37), respectively, present subsection (7) is renumbered as  
23          subsection (38), and present subsection (35) is amended to read:

24          39.01 Definitions.—When used in this chapter, unless the  
25          context otherwise requires:

26            (34)~~(35)~~ "Harm" to a child's health or welfare can occur  
 27 when a ~~any~~ person:

28            (a) Inflicts or allows to be inflicted upon the child  
 29 physical, mental, or emotional injury. In determining whether  
 30 harm has occurred, the following factors must be considered in  
 31 evaluating any physical, mental, or emotional injury to a child:  
 32 the age of the child; any prior history of injuries to the  
 33 child; the location of the injury on the body of the child; the  
 34 multiplicity of the injury; and the type of trauma inflicted.  
 35 Such injury includes, but is not limited to:

- 36            1. Willful acts that produce the following specific  
 37 injuries:
- 38            a. Sprains, dislocations, or cartilage damage.
  - 39            b. Bone or skull fractures.
  - 40            c. Brain or spinal cord damage.
  - 41            d. Intracranial hemorrhage or injury to other internal  
 42 organs.
  - 43            e. Asphyxiation, suffocation, or drowning.
  - 44            f. Injury resulting from the use of a deadly weapon.
  - 45            g. Burns or scalding.
  - 46            h. Cuts, lacerations, punctures, or bites.
  - 47            i. Permanent or temporary disfigurement.
  - 48            j. Permanent or temporary loss or impairment of a body  
 49 part or function.

50

51 As used in this subparagraph, the term "willful" refers to the  
52 intent to perform an action, not to the intent to achieve a  
53 result or to cause an injury.

54 2. Purposely giving a child poison, alcohol, drugs, or  
55 other substances that substantially affect the child's behavior,  
56 motor coordination, or judgment or that result in sickness or  
57 internal injury. For the purposes of this subparagraph, the term  
58 "drugs" means prescription drugs not prescribed for the child or  
59 not administered as prescribed, and controlled substances as  
60 outlined in Schedule I or Schedule II of s. 893.03.

61 3. Leaving a child without adult supervision or  
62 arrangement appropriate for the child's age or mental or  
63 physical condition, so that the child is unable to care for the  
64 child's own needs or another's basic needs or is unable to  
65 exercise good judgment in responding to any kind of physical or  
66 emotional crisis.

67 4. Inappropriate or excessively harsh disciplinary action  
68 that is likely to result in physical injury, mental injury as  
69 defined in this section, or emotional injury. The significance  
70 of any injury must be evaluated in light of the following  
71 factors: the age of the child; any prior history of injuries to  
72 the child; the location of the injury on the body of the child;  
73 the multiplicity of the injury; and the type of trauma  
74 inflicted. Corporal discipline may be considered excessive or  
75 abusive when it results in any of the following or other similar

76 | injuries:

77 |       a. Sprains, dislocations, or cartilage damage.

78 |       b. Bone or skull fractures.

79 |       c. Brain or spinal cord damage.

80 |       d. Intracranial hemorrhage or injury to other internal

81 | organs.

82 |       e. Asphyxiation, suffocation, or drowning.

83 |       f. Injury resulting from the use of a deadly weapon.

84 |       g. Burns or scalding.

85 |       h. Cuts, lacerations, punctures, or bites.

86 |       i. Permanent or temporary disfigurement.

87 |       j. Permanent or temporary loss or impairment of a body

88 | part or function.

89 |       k. Significant bruises or welts.

90 |       (b) Commits, or allows to be committed, sexual battery, as

91 | defined in chapter 794, or lewd or lascivious acts, as defined

92 | in chapter 800, against the child.

93 |       (c) Allows, encourages, or forces the sexual exploitation

94 | of a child, which includes allowing, encouraging, or forcing a

95 | child to:

96 |       1. Solicit for or engage in prostitution; or

97 |       2. Engage in a sexual performance, as defined by chapter

98 | 827.

99 |       (d) Exploits a child, or allows a child to be exploited,

100 | as provided in s. 450.151.

101 (e) Abandons the child. Within the context of the  
102 definition of "harm," the term "abandoned the child" or  
103 "abandonment of the child" means a situation in which the parent  
104 or legal custodian of a child or, in the absence of a parent or  
105 legal custodian, the caregiver, while being able, has made no  
106 significant contribution to the child's care and maintenance or  
107 has failed to establish or maintain a substantial and positive  
108 relationship with the child, or both. For purposes of this  
109 paragraph, "establish or maintain a substantial and positive  
110 relationship" includes, but is not limited to, frequent and  
111 regular contact with the child through frequent and regular  
112 visitation or frequent and regular communication to or with the  
113 child, and the exercise of parental rights and responsibilities.  
114 Marginal efforts and incidental or token visits or  
115 communications are not sufficient to establish or maintain a  
116 substantial and positive relationship with a child. The term  
117 "abandoned" does not include a surrendered newborn infant as  
118 described in s. 383.50, a child in need of services as defined  
119 in chapter 984, or a family in need of services as defined in  
120 chapter 984. The incarceration, repeated incarceration, or  
121 extended incarceration of a parent, legal custodian, or  
122 caregiver responsible for a child's welfare may support a  
123 finding of abandonment.

124 (f) Neglects the child. Within the context of the  
125 definition of "harm," the term "neglects the child" means that

126 | the parent or other person responsible for the child's welfare  
127 | fails to supply the child with adequate food, clothing, shelter,  
128 | or health care, although financially able to do so or although  
129 | offered financial or other means to do so. However, a parent or  
130 | legal custodian who, by reason of the legitimate practice of  
131 | religious beliefs, does not provide specified medical treatment  
132 | for a child may not be considered abusive or neglectful for that  
133 | reason alone, but such an exception does not:

134 |       1. Eliminate the requirement that such a case be reported  
135 | to the department;

136 |       2. Prevent the department from investigating such a case;  
137 | or

138 |       3. Preclude a court from ordering, when the health of the  
139 | child requires it, the provision of medical services by a  
140 | physician, as defined in this section, or treatment by a duly  
141 | accredited practitioner who relies solely on spiritual means for  
142 | healing in accordance with the tenets and practices of a well-  
143 | recognized church or religious organization.

144 |       (g) Exposes a child to a controlled substance or alcohol.  
145 | Exposure to a controlled substance or alcohol is established by:

146 |       1. A test, administered at birth, which indicated that the  
147 | child's blood, urine, or meconium contained any amount of  
148 | alcohol or a controlled substance or metabolites of such  
149 | substances, the presence of which was not the result of medical  
150 | treatment administered to the mother or the newborn infant; or

151           2. Evidence of extensive, abusive, and chronic use of a  
152 controlled substance or alcohol by a parent to the extent that  
153 the parent's ability to provide supervision and care for the  
154 child has been or is likely to be severely compromised.

155  
156 As used in this paragraph, the term "controlled substance" means  
157 prescription drugs not prescribed for the parent or not  
158 administered as prescribed and controlled substances as outlined  
159 in Schedule I or Schedule II of s. 893.03.

160           (h) Uses mechanical devices, unreasonable restraints, or  
161 extended periods of isolation to control a child.

162           (i) Engages in violent behavior that demonstrates a wanton  
163 disregard for the presence of a child and could reasonably  
164 result in serious injury to the child.

165           (j) Negligently fails to protect a child in his or her  
166 care from inflicted physical, mental, or sexual injury caused by  
167 the acts of another.

168           (k) Has allowed a child's sibling to die as a result of  
169 abuse, abandonment, or neglect.

170           (l) Makes the child unavailable for the purpose of  
171 impeding or avoiding a protective investigation unless the court  
172 determines that the parent, legal custodian, or caregiver was  
173 fleeing from a situation involving domestic violence.

174           (m) Violates s. 316.613 or s. 316.614 and such violation  
175 results in the injury or death of the child, if a physician

176 | licensed under chapter 458 substantiates that the violation  
 177 | caused the child's injury or death.

178 | Section 2. Paragraph (d) of subsection (2) of section  
 179 | 39.201, Florida Statutes, is amended to read:

180 | 39.201 Mandatory reports of child abuse, abandonment, or  
 181 | neglect; mandatory reports of death; central abuse hotline.—

182 | (2)

183 | (d) If the report is of an instance of known or suspected  
 184 | child abuse, abandonment, or neglect which ~~that~~ occurred out of  
 185 | the state or country and the alleged perpetrator and the child  
 186 | alleged to be the a victim live out of the state or country, the  
 187 | central abuse hotline may ~~shall~~ not accept the report or call  
 188 | for investigation unless the child is currently being evaluated  
 189 | in a medical facility licensed by the state.

190 | 1. If the child is currently being evaluated in a medical  
 191 | facility licensed by the state, the central abuse hotline must  
 192 | accept the report or call for investigation and transfer the  
 193 | information on the report or call to child protective services  
 194 | in the appropriate state or country.

195 | 2. If the child is not currently being evaluated in a  
 196 | medical facility licensed by the state, the central abuse  
 197 | hotline shall, ~~but shall~~ transfer the information on the report  
 198 | or call to child protective services in the appropriate state or  
 199 | country.

200 | Section 3. Paragraphs (i) and (j) are added to subsection

201 (4) of section 39.303, Florida Statutes, to read:

202 39.303 Child Protection Teams and sexual abuse treatment  
203 programs; services; eligible cases.—

204 (4) The child abuse, abandonment, and neglect reports that  
205 must be referred by the department to Child Protection Teams of  
206 the Department of Health for an assessment and other appropriate  
207 available support services as set forth in subsection (3) must  
208 include cases involving:

209 (i) A child who does not live in this state or country but  
210 who is currently being evaluated in a medical facility licensed  
211 by the state.

212 (j) A child who was not properly restrained in a motor  
213 vehicle pursuant to s. 316.613 or s. 316.614, and the improper  
214 restraint resulted in harm as defined in s. 39.01(34)(m).

215 Section 4. Subsection (1) of section 39.302, Florida  
216 Statutes, is amended to read:

217 39.302 Protective investigations of institutional child  
218 abuse, abandonment, or neglect.—

219 (1) The department shall conduct a child protective  
220 investigation of each report of institutional child abuse,  
221 abandonment, or neglect. Upon receipt of a report that alleges  
222 that an employee or agent of the department, or any other entity  
223 or person covered by s. 39.01(36) or (54) ~~s. 39.01(37) or (54)~~,  
224 acting in an official capacity, has committed an act of child  
225 abuse, abandonment, or neglect, the department shall initiate a

226 child protective investigation within the timeframe established  
227 under s. 39.201(5) and notify the appropriate state attorney,  
228 law enforcement agency, and licensing agency, which shall  
229 immediately conduct a joint investigation, unless independent  
230 investigations are more feasible. When conducting investigations  
231 or having face-to-face interviews with the child, investigation  
232 visits shall be unannounced unless it is determined by the  
233 department or its agent that unannounced visits threaten the  
234 safety of the child. If a facility is exempt from licensing, the  
235 department shall inform the owner or operator of the facility of  
236 the report. Each agency conducting a joint investigation is  
237 entitled to full access to the information gathered by the  
238 department in the course of the investigation. A protective  
239 investigation must include an interview with the child's parent  
240 or legal guardian. The department shall make a full written  
241 report to the state attorney within 3 working days after making  
242 the oral report. A criminal investigation shall be coordinated,  
243 whenever possible, with the child protective investigation of  
244 the department. Any interested person who has information  
245 regarding the offenses described in this subsection may forward  
246 a statement to the state attorney as to whether prosecution is  
247 warranted and appropriate. Within 15 days after the completion  
248 of the investigation, the state attorney shall report the  
249 findings to the department and shall include in the report a  
250 determination of whether or not prosecution is justified and

251 appropriate in view of the circumstances of the specific case.

252 Section 5. Paragraph (c) of subsection (1) of section  
253 39.521, Florida Statutes, is amended to read:

254 39.521 Disposition hearings; powers of disposition.—

255 (1) A disposition hearing shall be conducted by the court,  
256 if the court finds that the facts alleged in the petition for  
257 dependency were proven in the adjudicatory hearing, or if the  
258 parents or legal custodians have consented to the finding of  
259 dependency or admitted the allegations in the petition, have  
260 failed to appear for the arraignment hearing after proper  
261 notice, or have not been located despite a diligent search  
262 having been conducted.

263 (c) When any child is adjudicated by a court to be  
264 dependent, the court having jurisdiction of the child has the  
265 power by order to:

266 1. Require the parent and, when appropriate, the legal  
267 guardian or the child to participate in treatment and services  
268 identified as necessary. The court may require the person who  
269 has custody or who is requesting custody of the child to submit  
270 to a mental health or substance abuse disorder assessment or  
271 evaluation. The order may be made only upon good cause shown and  
272 pursuant to notice and procedural requirements provided under  
273 the Florida Rules of Juvenile Procedure. The mental health  
274 assessment or evaluation must be administered by a qualified  
275 professional as defined in s. 39.01, and the substance abuse

276 assessment or evaluation must be administered by a qualified  
277 professional as defined in s. 397.311. The court may also  
278 require such person to participate in and comply with treatment  
279 and services identified as necessary, including, when  
280 appropriate and available, participation in and compliance with  
281 a mental health court program established under chapter 394 or a  
282 treatment-based drug court program established under s. 397.334.  
283 Adjudication of a child as dependent based upon evidence of harm  
284 as defined in s. 39.01(34)(g) ~~s. 39.01(35)(g)~~ demonstrates good  
285 cause, and the court shall require the parent whose actions  
286 caused the harm to submit to a substance abuse disorder  
287 assessment or evaluation and to participate and comply with  
288 treatment and services identified in the assessment or  
289 evaluation as being necessary. In addition to supervision by the  
290 department, the court, including the mental health court program  
291 or the treatment-based drug court program, may oversee the  
292 progress and compliance with treatment by a person who has  
293 custody or is requesting custody of the child. The court may  
294 impose appropriate available sanctions for noncompliance upon a  
295 person who has custody or is requesting custody of the child or  
296 make a finding of noncompliance for consideration in determining  
297 whether an alternative placement of the child is in the child's  
298 best interests. Any order entered under this subparagraph may be  
299 made only upon good cause shown. This subparagraph does not  
300 authorize placement of a child with a person seeking custody of

301 the child, other than the child's parent or legal custodian, who  
302 requires mental health or substance abuse disorder treatment.

303 2. Require, if the court deems necessary, the parties to  
304 participate in dependency mediation.

305 3. Require placement of the child either under the  
306 protective supervision of an authorized agent of the department  
307 in the home of one or both of the child's parents or in the home  
308 of a relative of the child or another adult approved by the  
309 court, or in the custody of the department. Protective  
310 supervision continues until the court terminates it or until the  
311 child reaches the age of 18, whichever date is first. Protective  
312 supervision shall be terminated by the court whenever the court  
313 determines that permanency has been achieved for the child,  
314 whether with a parent, another relative, or a legal custodian,  
315 and that protective supervision is no longer needed. The  
316 termination of supervision may be with or without retaining  
317 jurisdiction, at the court's discretion, and shall in either  
318 case be considered a permanency option for the child. The order  
319 terminating supervision by the department must set forth the  
320 powers of the custodian of the child and include the powers  
321 ordinarily granted to a guardian of the person of a minor unless  
322 otherwise specified. Upon the court's termination of supervision  
323 by the department, further judicial reviews are not required if  
324 permanency has been established for the child.

325 4. Determine whether the child has a strong attachment to

326 | the prospective permanent guardian and whether such guardian has  
 327 | a strong commitment to permanently caring for the child.

328 |       Section 6. Paragraph (c) of subsection (1) of section  
 329 | 39.6012, Florida Statutes, is amended to read:

330 |           39.6012 Case plan tasks; services.—

331 |       (1) The services to be provided to the parent and the  
 332 | tasks that must be completed are subject to the following:

333 |       (c) If there is evidence of harm as defined in s.  
 334 | 39.01(34)(g) ~~s. 39.01(35)(g)~~, the case plan must include as a  
 335 | required task for the parent whose actions caused the harm that  
 336 | the parent submit to a substance abuse disorder assessment or  
 337 | evaluation and participate and comply with treatment and  
 338 | services identified in the assessment or evaluation as being  
 339 | necessary.

340 |       Section 7. This act shall take effect July 1, 2019.