

**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 Rules

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BILL: SB 7000

INTRODUCER: Children, Families, and Elder Affairs Committee

SUBJECT: Reporting Abuse, Abandonment, and Neglect

DATE: February 17, 2020

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
	<u>Preston</u>	<u>Hendon</u>		<b>CF Submitted as Committee Bill</b>
1.	<u>Bouck</u>	<u>Sikes</u>	<u>ED</u>	<b>Favorable</b>
2.	<u>Preston</u>	<u>Phelps</u>	<u>RC</u>	<b>Pre-meeting</b>

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**I. Summary:**

SB 7000 amends definitions relating to child-on-child sexual abuse and reorganizes and clarifies provisions and requirements currently in s. 39.201, F.S., relating to reports of child abuse, abandonment, or neglect and the central abuse hotline at the Department of Children and Families. It also adds a requirement that the central abuse hotline keep statistical reports relating to reports of child abuse and sexual abuse that are reported from or occur in specified educational settings and adds new requirements for investigations related to reports of child-on-child sexual abuse that occur in those educational settings.

The bill provides penalties for specified educational providers whose employees knowingly and willingly fail to report suspected or known child abuse, abandonment or neglect to the central abuse hotline and requires at least a one year suspension of the educator certificate of instructional personnel or school administrator who fail to report child abuse.

The bill provides that the State Board of Education may enforce compliance if a school policy for reporting child abuse, abandonment or neglect does not comply with state law and provides that school personnel reporting child abuse to their supervisor does not relieve them of the responsibility to directly report to the hotline.

The bill also creates a new section of the Florida Statutes, relating to reporting animal abuse, to recognize the strong link between child abuse and animal abuse by requiring any person who is required to investigate child abuse, abandonment, or neglect and who knows or has reasonable cause to suspect that abuse, neglect, cruelty, or abandonment of an animal has occurred must report such knowledge or suspicion within 72 hours to his or her supervisor for submission to a local animal control agency. The bill specifies the information that is to be included in a report.

The bill provides penalties for knowingly and willfully failing to report and requires training for child protective investigators and animal control officers.

The bill amends current law related to sexual abuse of animals to update terminology, include activities specifically related to children and activities involving the sexual abuse of animals and increase the penalty for violations from a misdemeanor of the first degree to a felony of the third degree. The bill places violations at Level 6 on the Offense Severity Ranking Chart.

The bill has no impact on state revenues or expenditures.

The bill takes effect on July 1, 2020.

## II. Present Situation:

Current law requires any person who knows or has reasonable cause to suspect a child is abused, abandoned, or neglected by a parent, legal custodian, caregiver, or other person responsible for the child's welfare is required to report that suspicion to the Department of Children and Families' (DCF's or department's) central abuse hotline.<sup>1</sup>

In addition, any person who knows, or who has reasonable cause to suspect, that a child is abused by an adult other than a parent, legal custodian, caregiver, or other person responsible for the child's welfare or any person who knows, or has reasonable cause to suspect, that a child is the victim of childhood sexual abuse or the victim of a known or suspected juvenile sexual offender, as defined in this chapter, must report such knowledge or suspicion to the central abuse hotline.<sup>2</sup>

Florida currently does not require any reporting of animal cruelty or neglect.

### Penalties for Failing to Report Child Abuse

According to s. 39.205, F.S., a person who fails to report known or suspected child abuse, abandonment, or neglect, or who knowingly and willfully prevents another person from doing so, is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.<sup>3</sup>

Likewise, a person who is 18 years of age or older and lives in the same house as a child who is known or suspected to be a victim of child abuse, neglect of a child, or aggravated child abuse, and knowingly and willfully fails to report the child abuse commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, unless the court finds that the person is a victim of domestic violence or that other mitigating circumstances exist.<sup>4</sup>

Postsecondary educational entities including Florida College System institutions, state universities, or nonpublic colleges, universities, or schools, as defined in s. 1000.21 or s. 1005.02, F.S., whose administrators knowingly and willfully, upon receiving information from faculty, staff, or other institution employees, fail to report known or suspected child abuse, abandonment, or neglect committed on the property of the university, college, or school, or

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<sup>1</sup> Section 39.201, F.S.

<sup>2</sup> *Id.*

<sup>3</sup> Section 39.205, F.S.

<sup>4</sup> *Id.*

during an event or function sponsored by the university, college, or school, or who knowingly and willfully prevent another person from doing so, are subject to fines of \$1 million for each such failure.<sup>5</sup>

### **Child-on-Child Sexual Abuse**

Child-on-child sexual abuse is a specific category of child sexual abuse that has not typically been recognized by the general public. There is a growing concern among parents, educators, and child safety experts related to children who sexually abuse other children. Generally, such scenarios include a child who uses their age, physical strength, or positions of status or authority, to engage another child in sexual activity. Typically, child-on-child sexual abuse includes a wide range of sexual behaviors from noncontact sexual behavior such as making obscene phone calls, exhibitionism, voyeurism, and the showing or taking of lewd photographs to varying degrees of direct sexual contact, such as frottage, fondling, digital penetration, rape and various other sexually aggressive acts. Child-on-child sexual abuse does not include normative sexual play or anatomical curiosity and exploration.<sup>6</sup>

This issue is complicated because there is a child who is a victim whose life has often been deeply impacted by the abuse and he or she needs help and healing and there is also a child who is the offender who needs help. Our judicial and mental health systems often treat children with illegal or problematic sexual behaviors as adults. Depending upon local, state, and federal laws, children involved in this form of abuse may be considered a child with sexual behavior problems in need of child welfare services, may be legally defined as juvenile sex offenders or molesters, and/or may be permanently placed on a sex offender registry for involvement in such abuse.<sup>7</sup>

There are many social stigmas and misunderstandings that these children are “monsters” who are destined to act out again. These issues and more make it difficult to report these cases of abuse and to get help for all involved. Nonetheless, it has been repeatedly documented through robust empirical evidence that children with sexual behavior problems and juvenile sex offenders have relatively low future sex offending rates. While these findings may seem counterintuitive when compared to adult sex offenders who report childhood onset of their sexual aggression, recent longitudinal studies suggest that childhood sexual behavioral problems and even juvenile sex offending does not significantly predispose one to engage in adult sex offenses.<sup>8</sup>

Research on the effectiveness of treatment interventions for juvenile sex offenders and children with sexual behavior problems has demonstrated positive outcomes for treatment approaches based upon cognitive-behavioral therapy. While sexual re-offense rates are relatively low for children with sexual behavior problems and juvenile sex offenders, studies have documented program success in reducing recidivism among this population. Other research has indicated that

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<sup>5</sup> Section 39.205, F.S.

<sup>6</sup> National Center on Sexual Exploitation, <https://endsexualexploitation.org/cochsb/> (last visited October 3, 2019).

<sup>7</sup> Florida Department of Children and Families, *Child-on-Child Needs Assessment – White Paper* (February 2010), available at: <http://thejrc.com/docs/Child%20on%20Child%20Sexual%20Abuse%20Needs%20Assessment%20-%20White%20Paper.pdf>.

<sup>8</sup> *Id.* Each district school board charter school, and private school that accepts scholarship students who participate in a state scholarship program must post in a prominent place in each school policies relating to reporting actual or suspected cases of child abuse, abandonment, or neglect. Section 1006.061, F.S.

program effectiveness is dependent in part on the type of intervention and type of sexual behavior problems. What has been noted in the research is that juvenile sex offenders are more likely than adults to respond positively to treatment and that they are also less likely to recidivate than adults.<sup>9</sup>

In 2009, former DCF Secretary George Sheldon established the Gabriel Myers Work Group to examine the case of Gabriel Myers, a 7-year-old who, on April 16, 2009, was found hanging in the home of his foster parents in Margate, Florida. The second of two reports prepared by the work group, focused on the issue of child-on-child sexual abuse and identified 107 findings and 84 recommendations relating to the issue of child-on-child sexual abuse, including a number related to labeling sexual behaviors<sup>10</sup> It is unknown how many of these recommendations have been implemented.

Current law frequently causes labeling of children as sex offenders or predators. These labels cause stigma that adversely affects children in whatever setting they are in. The label follows them through their child welfare existence and may continue into adulthood. Treatment programs are often labeled “sex offender programs.” This is not conducive to positive treatment outcomes. The state’s child welfare system may need to change its language to encourage prevention and research-based treatment. Research clearly shows that children seldom reoffend as adults. The system should encourage supportive treatment experiences.<sup>11</sup>

The 1995 enactment of legislation that criminalized sexual behavior problems and labeled some children as juvenile sex offenders further complicated the ability to treat effectively children with sexual behavior problems and to protect other children from child on child sexual abuse. This terminology should be avoided unless criminally proven and the child is assessed and a professional determination is made that the child poses a risk to society. Research has proven that the significant majority of children with sexual behavior problems do not become adult sex offenders or predators; those who receive proper and timely assessment and treatment have an even lower risk of future sexual behavior problems.<sup>12</sup>

While current law requires the hotline to collect and analyze child-on-child sexual abuse reports and include the information in aggregate statistical reports, no current data has been received from the department relating to child-on-child sexual abuse cases. The Gabriel Myers Work Group reported that in FY 2008-09, 8,321 children were identified as being either alleged perpetrators or victims of child on child sexual abuse by the department and approximately 700

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<sup>9</sup> Florida Department of Children and Families, *Child-on-Child Needs Assessment – White Paper* (February 2010), available at: <http://thejrc.com/docs/Child%20on%20Child%20Sexual%20Abuse%20Needs%20Assessment%20-%20White%20Paper.pdf>.

<sup>10</sup> Florida Department of Children and Families, *Report of Gabriel Myers Work Group on Child-on-Child Sexual Abuse* (May 14, 2010), available at: <https://www.myflfamilies.com/initiatives/GMWorkgroup/docs/Gabriel%20Myers%20COC%20Report%20May%2014%20010.pdf>.

<sup>11</sup> *Id.*

<sup>12</sup> *Juvenile Sexual Offenders and Their Victims: Final Report Task Force on Juvenile Sexual Offenders And Their Victims* (January 18, 2006), available at: <http://centerforchildwelfare.fmhi.usf.edu/kb/bppub/JuvSexOffenderTaskForceReport.pdf>. See Appendix II 1995 Task Force on Juvenile Sex Offenders and Victims of Juvenile Sex Offense and Crimes.

youths were found to be verified victims of child on child sexual abuse by DCF in fiscal year 2007.<sup>13</sup>

Florida law currently requires child-on-child sexual abuse to be reported to the central abuse hotline.<sup>14</sup>

### **Sexual Abuse of Children in Schools**

The reporting of sexual assault and harassment on college campuses has received a great deal of attention in the media, and prompted calls to action from students, legislators, and advocates around the country. This attention is prompting important questions about what school administrators are doing, and what they should be doing, to prevent and address sexual harassment at the elementary and secondary school level, before students get to college. Title IX of the Education Amendments of 1972 (Title IX) has long recognized sexual harassment of students – whether by their peers or by school employees – as a form of prohibited sex discrimination. Despite this legal prohibition, which applies at all schools and educational programs that receive federal funding, harassment based on sex is still a common and harmful phenomenon in K-12 schools, and it has a particularly negative impact on girls.<sup>15</sup>

Recently, reviewing state education records and federal crime data, which allows for a more thorough analysis than state education records, a yearlong investigation by the Associated Press (AP) uncovered roughly 17,000 official reports of sexual assaults by students over a four-year period, from fall 2011 to spring 2015. Though that figure represents the most complete record yet of sexual assaults among the nation’s 50 million K-12 students, it does not completely represent the problem because such attacks are greatly under-reported, some states don’t track them and those that do vary widely in how they classify and catalog sexual violence. There are academic estimates that range sharply higher.<sup>16</sup>

Elementary and secondary schools have no national requirement to track or disclose sexual violence, and they feel tremendous pressure to hide it. Even under varying state laws, acknowledging an incident can trigger liabilities and requirements to act. When schools don’t act children are harmed and justice is not served. Children remain most vulnerable to sexual assaults by other children in the privacy of a home, but schools where many more adults are keeping watch, and where parents trust their kids will be kept safe are the number two site where children are sexually assaulted by their peers.<sup>17</sup>

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<sup>13</sup> Florida Department of Children and Families, *Report of Gabriel Myers Work Group on Child-on-Child Sexual Abuse* (May 14, 2010), available at: <https://www.myflfamilies.com/initiatives/GMWorkgroup/docs/Gabriel%20Myers%20COC%20Report%20May%2014%202010.pdf>.

<sup>14</sup> Section 39.201, F.S.

<sup>15</sup> Equal Rights Advocates, *Ending Harassment Now: Keeping our Kids Safe at Schools*, 2017, available at: <https://cdn.atixa.org/website-media/atixa.org/wp-content/uploads/2015/12/12193459/Ending-Harrasment-Now-Keeping-Our-Kids-Safe-At-School.pdf>.

<sup>16</sup> The Associated Press, *Hidden horror of school sexual assaults revealed by AP*, May 23, 2017, <https://www.apnews.com/afs:Content:965140127> (Last visited October 10, 2019).

<sup>17</sup> *Id.* Instructional personnel or administrative personnel must report a sexual battery committed by a student upon another student to a law enforcement agency having jurisdiction over the school or over the place where the sexual battery occurred if not on the grounds of the school. Section 1012.799, F.S.

Ranging from rape and sodomy to forced oral sex and fondling, the sexual violence that the AP tracked often was mischaracterized as bullying, hazing or consensual behavior. It occurred anywhere students were left unsupervised: buses and bathrooms, hallways and locker rooms. No type of school was immune, whether it be in an upper-class suburb, an inner-city neighborhood or a blue-collar farm town. The AP investigation also found:

- Unwanted fondling was the most common form of assault, but about one in five of the students assaulted were raped, sodomized or penetrated with an object, according to AP's analysis of the federal incident-based crime data.
- About 5 percent of the sexual violence involved 5 and 6 year-olds. But the numbers increased significantly between ages 10 and 11 about the time many students start their middle-school years and continued rising up until age 14. They then dropped as students progressed through their high school years.
- Contrary to public perception, data showed that student sexual assaults by peers were far more common than those by teachers. For every adult-on-child sexual attack reported on school property, there were seven assaults by students.
- Laws and legal hurdles also favor silence. Schools have broadly interpreted rules protecting student and juvenile privacy to withhold basic information about sexual attacks from their communities. Victims and their families face high legal thresholds to successfully sue school districts for not maintaining safe learning environments.

Schools frequently were unwilling or ill-equipped to address the problems the AP found, despite having long been warned by the U.S. Supreme Court<sup>18</sup> that they could be liable for monetary damages.

In October 2010 the U.S. Education Department (USDOE) reminded public school districts that Title IX obligates them to act on bullying and sexual violence. The USDOE specifically referenced anti-gay slurs, sexual remarks, physical harm and unwanted touching.<sup>19</sup> School districts have had to report all sorts of data about students, from those who received free lunches to those who brought in firearms. But there is no federal mandate to track sexual violence. By contrast, colleges and universities must keep a public crime log, send emergency alerts about sexual assaults, train staff and aid victims under a federal law named for a student who was raped and murdered in 1986.<sup>20</sup> Whether and how school sexual violence is tracked is determined by individual states the AP found, with wide variations in whether that information is verified or any training on student-on-student sexual assault is required.

Because experiences that girls have in school are crucial to their overall well-being, recent reports released by the Delores Barr Weaver Policy Center examined the experiences of girls in middle and high school in Florida communities statewide on a variety of well-being indicators. The report examined educational attainment and disparities and girls' overall well-being in relation to school connectedness, safety, access to safe adults including parents and teachers, freedom from violence and victimization in their homes, schools and communities, and

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<sup>18</sup> *Davis v. Monroe County Bd. Of Educ.*, 526 U.S. 629, (1999).

<sup>19</sup> U.S. Department of Education, Office of Civil Rights, *Guidance on Schools' Obligations to Protect Students from Student-on-Student Harassment on the Basis of Sex; Race, Color and National Origin; and Disability* (October 26, 2010), available at: <https://www2.ed.gov/about/offices/list/ocr/letters/colleague-201010.pdf>.

<sup>20</sup> Public Law No: 99-654, 100 STAT. 3660.

emotional well-being.<sup>21</sup> National and state data were analyzed for the studies including those from the Department of Children and Families, the Department of Juvenile Justice, the Department of Education and survey data<sup>22</sup> of 27,000 girls in middle and high schools collected by the Department of Health. The data revealed that:

- 33 percent of girls in middle or high schools do not feel safe in school;
- 63 percent of girls in high school reported being verbally bullied, 30 percent have experienced physical bullying, and 35 percent have experienced cyberbullying; the rates are higher for girls in middle schools; and
- 25 percent of girls reported they have no teacher they can speak to one-on-one about problems.<sup>23</sup>

### **Link Between Child Abuse and Animal Abuse**

Since the 1970s agencies such as the Federal Bureau of Investigation (FBI or Bureau) and the Humane Society of the United States have conducted research on the connection between animal abuse and later violence towards humans, finding a strong correlation. Research indicates:

Young people who are cruel to animals are more likely to become aggressive toward humans as they develop.

- Violent, imprisoned offenders have usually abused animals during their childhood.
- Children learn cruel behaviors from adults and may reenact them on animals.  
Children may abuse animals to release the aggression they feel toward abusive adults or because of psychological trauma

Animal abuse, cruelty and neglect are often considered isolated incidents completely separated from other forms of family violence. Today, however, professionals involved with victims of family violence are not surprised when they learn that often these acts are linked, and that various agencies are working with the same families. The intentional harming or killing of pets by adults or children is now recognized as an sentinel indicator of violence in the home and often the first sign of other family and community violence. Intentional abuse in any form should be taken seriously. Knowing that there is a “link,” agencies involved in preventing family violence are increasingly beginning to work together for a more effective, species-spanning response.<sup>24</sup>

It is reported by advocacy groups to be essential that all those who seek to identify and reduce such violence be alert to this connection. Likewise, it is deemed important for professionals in domestic violence intervention, law-enforcement, child protection, human and veterinary medicine, education and animal care and control get to know their counterparts in other professions and work together to establish strategies for a coordinated response to these needs.

Statistics support the efficacy of mandatory cross-reporting.

- Animal abusers are five times as likely to harm humans.

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<sup>21</sup> Delores Barr Weaver Policy Center, *Status of Florida Girls Report* (September 2019), available at: <https://www.seethegirl.org/wp-content/uploads/2019/09/Full-Report-WellBeing.pdf>.

<sup>22</sup> Survey data does not represent all middle and high school students in Florida. Private, alternative, vocational and special education schools are excluded from the sample.

<sup>23</sup> Delores Barr Weaver Policy Center, *Status of Florida Girls Report* (September 2019), available at: <https://www.seethegirl.org/wp-content/uploads/2019/09/Full-Report-WellBeing.pdf>.

<sup>24</sup> National Link Coalition, *What is the Link?* <http://nationallinkcoalition.org/what-is-the-link> (last visited October 14, 2019).

- In 88 percent of the families of children referred for services because a child had been abused, at least one person had abused pets.
- In approximately two-thirds of those families, it was the abusive parent who had injured or killed a pet. In the remaining one-third, it was a child who abused the pet.
- Seventy percent of people charged with cruelty to animals were known by police for other violent behavior — including homicide.
- Sixty percent of the homes where child abuse or neglect occurred had abused animals.
- Seventy-one percent of abused women said their partners harmed, killed or threatened pets.
- Twelve independent surveys found that between 18 and 48 percent) of battered women delayed their decision to leave, or returned to their abusers out of fear for the welfare of their animals.
- Children exposed to domestic violence were three times more likely to be cruel to animals. In addition, 26.8 percent of boys and 29.4 percent of girls who were victims of physical and sexual abuse and domestic violence have been reported to abuse the family pets, and 75 percent of the incidents of animal abuse occurred in the presence of children to psychologically control and coerce them.<sup>25</sup>

### School Specific Violence and Animal Abuse

While some researchers disagree,<sup>26</sup> the National School Safety Council, the USDOE, the American Psychological Association and the National Crime Prevention Council agree that animal cruelty is a warning sign for at-risk youth. A number of studies have drawn links between the abuse of animals and violent incidents in schools. A 2001-2004 study by the Chicago Police Department discovered that in seven school shootings that took place across the country between 1997 and 2001, all involved boys had previously committed acts of animal cruelty.<sup>27</sup>

### Florida and Other States

Fifteen states now have cross-reporting laws<sup>28</sup> where officials investigating child abuse must report animal abuse and officials investigating animal abuse must report child abuse. The increasing availability of orders of protection is widely viewed as an acknowledgement of the link and a step in the right direction.<sup>29</sup> Twenty-four states, the District of Columbia, and the territory of Puerto Rico have statutes granting courts the power to enter orders of protection protecting against child abuse and domestic violence by protecting pets. The New York Family

<sup>25</sup> Devereaux, M.J., *Mandatory Cross-Reporting of Animal and Child Abuse Protects Domestic Violence Victims and Animals* (June 17, 2014), available at: <http://devlegal.com/page/mandatory-cross-reporting-of-animal-and-child-abuse-protects-domestic-violence-victims-and-animals/>.

<sup>26</sup> Psychology Today, *Animal Cruelty Does Not Predict Who Will Be A School Shooter* (February 21, 2018). <https://www.psychologytoday.com/us/blog/animals-and-us/201802/animal-cruelty-does-not-predict-who-will-be-school-shooter> (last visited March 20, 2019).

<sup>27</sup> The Humane Society of the United States *Animal cruelty and human violence FAQ*, <https://www.humanesociety.org/resources/animal-cruelty-and-human-violence-faq> (last visited March 21, 2019).

<sup>28</sup> Those states are California, Colorado, Connecticut, District of Columbia, Illinois, Kentucky, Louisiana, Maine, Massachusetts, Nebraska, Ohio, Oregon, Tennessee, Virginia and West Virginia. Devereaux, M.J., *Mandatory Cross-Reporting of Animal and Child Abuse Protects Domestic Violence Victims and Animals*. June 17, 2014, Available at: <http://devlegal.com/page/mandatory-cross-reporting-of-animal-and-child-abuse-protects-domestic-violence-victims-and-animals/> (last visited October 11, 2019).

<sup>29</sup> *Id.*



Court Act, for example, allows an order of protection “to refrain from intentionally injuring or killing, without justification, any companion animal the respondent knows to be owned, possessed, leased, kept or held by the petitioner or a minor child residing in the household.”

At least 28 states have counseling provisions in their animal cruelty laws. Four of these states require psychological counseling for anyone convicted of animal cruelty and six mandate counseling for juveniles convicted of animal cruelty.<sup>30</sup>

### **The FBI and Federal Tracking**

On January 1, 2016, the FBI’s National Incident-Based Reporting System (NIBRS) began collecting detailed data from participating law enforcement agencies on acts of animal cruelty, including gross neglect, torture, organized abuse, and sexual abuse. Before this year, crimes that involved animals were lumped into an “All Other Offenses” category in the FBI’s Uniform Crime Reporting (UCR) Program’s annual Crime in the United States report, a survey of crime data provided by about 18,000 city, county, state, tribal, and federal law enforcement agencies. Acts of cruelty against animals are now counted alongside felony crimes like arson, burglary, assault, and homicide in the FBI’s expansive criminal database.<sup>31</sup>

The National Sheriffs’ Association was a leading advocate for adding animal cruelty as a data set in the Bureau’s collection of crime statistics. The association for years has cited studies linking animal abuse and other types of crimes—most famously, murders committed by serial killers like Ted Bundy, Jeffrey Dahmer, and the “Son of Sam” killer David Berkowitz. The organization also points out the overlap animal abuse has with domestic violence and child abuse. John Thompson, deputy executive director of the National Sheriffs’ Association stated that “If somebody is harming an animal, there is a good chance they also are hurting a human. If we see patterns of animal abuse, the odds are that something else is going on.”<sup>32</sup>

A first look at NIBRS animal cruelty statistics will be available next year, but it will take at least three to five years for the data to begin showing helpful patterns. Groups that advocated for the new animal cruelty data hope that by adding it to NIBRS, rather than the summary-based statistics agencies provide the Bureau each year, they will get a much richer data set from which to mine. That’s because NIBRS requires participating agencies to not only report crimes but also all the circumstances of a crime. Additionally, the Bureau plans to phase out summary-based UCR statistics—which have been collected roughly the same way since 1930—in favor of NIBRS by 2021.<sup>33</sup>

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<sup>30</sup> The Humane Society of the United States. Available at: <https://www.humanesociety.org/resources/animal-cruelty-and-human-violence-faq> (last visited October 11, 2019).

<sup>31</sup> Federal Bureau of Investigation. Tracking Animal Crimes, February 1, 2016, Available at: <https://www.fbi.gov/news/stories/-tracking-animal-cruelty> (Last visited October 14, 2019).

<sup>32</sup> Sheltering Animals Of Abuse Victims, <http://www.saaavprogram.org/blog/2018/3/8/t49dzj8ci62m7cera4bc5enfoe8ct7> (last visited October 11, 2019).

<sup>33</sup> Federal Bureau of Investigation. Tracking Animal Crimes, February 1, 2016, <https://www.fbi.gov/news/stories/-tracking-animal-cruelty> (last visited October 14, 2019).

## Sexual Abuse of Animals

Animal sexual abuse is the sexual molestation of an animal by a human. It can also include the killing or injuring of an animal for sexual gratification. Studies have shown that bestiality is strongly related to child sexual abuse or pedophilia. In fact, bestiality is the single largest predictor of future risk to molest a child. In a recent study of about 500 bestiality-related arrests in the U.S., more than a third of the incidents involved not only the sexual abuse of an animal, but of a child or adult. Children under the age of 12 were frequently solicited or manipulated into having sex with a family pet or forced to watch a parent or other guardian do so. Many of them were shown animal pornography as a way of grooming them to perform sexual acts.<sup>34</sup>

Laws related to animal sexual abuse as a form of cruelty are typically more specialized than animal cruelty laws in general. There is wide variability in how bestiality laws are written and enforced across the U.S., and not every state has one. Although attitudes are changing, animals have traditionally been thought of as property, and in sixteen U.S. states, laws prohibiting bestiality are housed in the animal cruelty codes. In the remaining states with laws, bestiality is considered a sexual assault or a crime against public morals. In 23 states, a violation of the law is a misdemeanor with penalties ranging from 30 days to 18 months. In the remaining states bestiality is a felony with penalties ranging from 5 months to 20 years. More problematic than how bestiality laws are codified is the definition of what bestiality entails. A law that is too general or too specific can result in loopholes that affect the kind of charges that can be laid or successfully prosecuted.<sup>35</sup>

Current law in Florida includes provisions related to animal sexual abuse and violators commit a misdemeanor of the first degree.<sup>36</sup>

### III. Effect of Proposed Changes:

**Section 1** amends s. 39.01, F.S., relating to definitions, to delete the definition of the terms “juvenile sexual abuse” and “child who has exhibited inappropriate sexual behavior” and create a definition for the term “child-on-child sexual abuse.”

**Section 2** creates s. 39.101, F.S., relating to the central abuse hotline, to reorganize and clarify provisions currently in s. 39.201, F.S., that are specific to the operation of the central abuse hotline. It also adds a requirement that the Department of Children and Families (department) collect and analyze, in separate statistical reports, reports of child abuse and sexual abuse which are reported from or which occurred on school premises; on school transportation; at school-sponsored off-campus events; at any school readiness program provider determined to be eligible under s. 1002.88, F.S.; at a private prekindergarten provider or a public school prekindergarten provider, as those terms are defined in s. 1002.51, F.S.; at a public K-12 school as described in s. 1000.04, F.S.; or at a home education program or a private school, as those terms are defined in s. 1002.01, F.S. Those reports are already required for reports from a Florida College System

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<sup>34</sup> National Sheriff’s Association, Sheriff’s and Deputy Magazine, *The Law Enforcement Guide: What You Should Know About Bestiality, 2019 Special Edition*, available at: [https://www.sheriffs.org/sites/default/files/2019\\_SD\\_AA.pdf](https://www.sheriffs.org/sites/default/files/2019_SD_AA.pdf).

<sup>35</sup> *Id.*

<sup>36</sup> Section 828.126, F.S.

institution or a state university, as those terms are defined in s. 1000.21, F.S.; or at any school, as defined in s. 1005.02, F.S.

**Section 3** amends s. 39.201, F.S., relating to mandatory reporting of child abuse, abandonment or neglect, to reorganize and clarify provisions currently in s. 39.201, F.S., that are specific to the child abuse, abandonment, or neglect mandatory reporting process. New requirements include a provision for the department to investigate reports of child-on-child sexual abuse that occur in specified educational settings; and that an animal control officer as defined in s. 828.27, F.S.; or agent appointed under s. 828.03, F.S.; is required to provide his or her name to the hotline when making a report.

**Section 4** amends s. 39.205, F.S., relating to penalties for reporting of child abuse, abandonment or neglect, to provide penalties for educational institutions that fail to report child abuse, abandonment or neglect as follows:

- Any school readiness program provider determined to be eligible under s. 1002.88, F.S.; private prekindergarten provider or public school prekindergarten provider, as those terms are defined in s. 1002.51, F.S.; public K-12 school as described in s. 1000.04, F.S.; home education program as defined in s. 1002.01, F.S.; or private school as defined in s. 1002.01, F.S., that accepts scholarship students who participate in a state scholarship program under chapter 1002, F.S.; whose employees knowingly and willingly fail to report known or suspected child abuse, abandonment, or neglect to the central abuse hotline pursuant to this chapter, is subject to a penalty for each such failure.
  - An early learning coalition may suspend or terminate a provider from participating in the school readiness program or Voluntary Prekindergarten Education Program if an employee of the provider fails to report known or suspected child abuse, abandonment, or neglect.
  - If the State Board of Education (state board) determines that policies of the district school board regarding reporting known or suspected child abuse, abandonment, or neglect by school employees do not comply with statute or state board rule, the state board may enforce compliance pursuant to s. 1008.32, F.S.
  - The Department of Education may prohibit a private school whose employees fail to report known or suspected child abuse, abandonment, or neglect from enrolling new students in a state scholarship program under chapter 1002 for 1 fiscal year. If employees at a private school knew of, should have known of, or suspected child abuse, abandonment, or neglect in two or more instances, the Commissioner of Education may determine that the private school is ineligible to participate in scholarship programs.

The bill also provides that school personnel reporting child abuse to their supervisor does not relieve them of the responsibility to directly report to the hotline.

**Section 5** creates s. 39.208, F.S., relating to reporting of child and animal abuse, to recognize the importance of the strong link between child abuse and animal abuse and cruelty by requiring any person who is required to investigate child abuse, abandonment, or neglect and who knows or has reasonable cause to suspect that abuse, neglect, cruelty, or abandonment of an animal has occurred must report such knowledge or suspicion within 72 hours to his or her supervisor for submission to a local animal control agency. The bill specifies the information that is to be

included in a report. The bill provides for penalties for knowingly and willfully failing to report and requires training for child protective investigators and animal control officers.

**Section 6** amends s. 39.302, F.S., relating to institutional investigations of child abuse, abandonment and neglect, to provide that in an institutional investigation, the alleged perpetrator may be represented by an attorney, at his or her own expense, or may be accompanied by another person, if the attorney or the person executes an affidavit of understanding with the department and agrees to comply with the confidentiality requirements under s. 39.202, F.S., This provision is currently in s. 39.201, F.S., and is being relocated to the more appropriate section.

**Section 7** amends s. 828.126, F.S., relating to sexual activities involving animals, to update terminology, include activities specifically related to children and activities involving the sexual abuse of animals and increase the penalty for violations from a misdemeanor of the first degree to a felony of the third degree. The bill places violations at Level 6 on the Offense Severity Ranking Chart.

**Section 8** amends s. 828.27, F.S., relating to local animal control or cruelty ordinances, to require county and municipally employed animal control officers to complete a 1-hour training course developed by the department and the Florida Animal Control Association on how to recognize and report child abuse, abandonment and neglect.

**Section 9** amends s. 921.0022, F.S., relating to the criminal punishment code and the offense severity ranking chart, to add violations of s. 828.126, F.S., relating to sexual activities with animals, to Level 6 of the Offense Severity Ranking Chart.

**Section 10** amends s. 1006.061, F.S., relating to child abuse abandonment and neglect policy in schools, to clarify that child-on-child sexual abuse must also be included in school policies and on posters required to be posted in every school setting. Requires those posters to be updated in collaboration with the department.

**Section 11** amends s. 1012.795, F.S., relating to the Education Practices Commission and the authority to discipline, to require at least a one year suspension of the educator certificate of instructional personnel or school administrator who knowingly fails to report child abuse.

**Section 12** amends s. 39.307, F.S., relating to reports of child-on-child sexual abuse, to conform to changes made by this act.

**Section 13** amends s. 39.202, F.S., relating to confidentiality of reports and records in cases of child abuse or neglect, to conform a reference to changes made by this act.

**Section 14** amends s. 39.301, F.S., relating to the initiation of protective investigations, to conform a reference to changes made by this act.

**Section 15** amends s. 39.521, F.S., relating to disposition hearings and powers of disposition, to conform a reference to changes made by this act.

**Section 16** amends s. 39.6012, F.S., relating to case plan tasks and services, to conform a reference to changes made by this act.

**Section 17** amends s. 322.09, F.S., relating to the responsibility for negligence or misconduct of a minor, to conform a reference to changes made by this act.

**Section 18** amends s. 394.495, F.S., relating to child and adolescent mental health system of care, to conform a reference to changes made by this act.

**Section 19** amends s. 627.746, F.S., relating to coverage for minors who have a learner's driver license, to conform a reference to changes made by this act.

**Section 20** amends s. 934.03, F.S., relating to interception and disclosure of wire, oral, or electronic communications prohibitions, to conform a reference to changes made by this act.

**Section 21** amends s. 934.255, F. S., relating to subpoenas in investigations of sexual offenses, to conform a reference to changes made by this act.

**Section 22** amends s. 960.065, F.S., relating to eligibility for awards, to conform a reference to changes made by this act.

**Section 23** provides an effective date of July 1, 2020.

#### **IV. Constitutional Issues:**

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

**V. Fiscal Impact Statement:****A. Tax/Fee Issues:**

None.

**B. Private Sector Impact:**

None.

**C. Government Sector Impact:**

The bill has not been reviewed by the Criminal Justice Estimating Conference to determine the impact on the state's prison population. Animal abuse is a low volume offense and is not expected to have a fiscal impact on the state.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 39.01, 39.201, 39.205, 39.302, 828.126, 828.27, 921.0022, 1006.061, 1012.795, 39.307, 39.202, 39.301, 39.521, 39.6012, 322.09, 394.495, 627.746, 934.03, 934.255, and 960.065.

This bill creates the following sections of the Florida Statutes: 39.101 and 39.208.

**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.