

**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 Appropriations

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BILL: CS/SB 96

INTRODUCER: Children, Families, and Elder Affairs Committee and Senators Book and Brodeur

SUBJECT: Child Welfare

DATE: March 10, 2021

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Moody</u>	<u>Cox</u>	<u>CF</u>	<u>Fav/CS</u>
2.	<u>Sneed</u>	<u>Sadberry</u>	<u>AP</u>	<u>Pre-meeting</u>
3.	_____	_____	<u>RC</u>	_____

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**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/SB 96 reorganizes and clarifies reporting requirements and penalties, and adds requirements relating to reporting, data collection and analysis, animal abuse, sexual abuse training and response teams, multidisciplinary legal representation teams, and other provisions.

The bill requires 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. Further, the bill provides that a person required to report to the hotline is not relieved by notifying his or her supervisor.

If the Department of Education (DOE) determines that any instructional personnel or school administrator knowingly failed to report known or suspected child abuse as required and the Education Practices Commission (EPC) has issued a final order for a previous instance of failure to report by the individual, the bill requires a minimum of a 1 year suspension of the instructional personnel's or school administrator's educator certificate.

The bill requires an immediate onsite investigation to be conducted by a critical incident rapid response team (CIRRT) for all reports to the hotline containing allegations of sexual abuse of a child under certain circumstances. It also requires a representative from a child advocacy center to be included on the multiagency team conducting the investigation. The bill adds members of standing or select legislative committees to be provided access to confidential reports and records in cases of child abuse and neglect within 7 business days of the request.

The bill creates a new section of the Florida Statutes relating to reporting animal cruelty. In recognition of the strong link between child abuse and animal cruelty, the bill requires any person who is required to investigate child abuse, abandonment, or neglect and who knows or has reasonable cause to suspect animal cruelty, to report to his or her supervisor within 72 hours for submission to a local animal control agency.

The bill provides penalties for knowingly and willfully failing to report animal abuse. It also requires training for child protective investigators and animal control officers. The bill includes animal control officers and other agents to the list of persons required to disclose their name to the hotline.

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 first degree misdemeanor to a third degree felony. The bill adds the offense of sexual activities involving animals as a Level 6 on the Offense Severity Ranking Chart.

The bill authorizes each Office of Criminal Conflict and Civil Regional Council (OCCCRC) to establish multidisciplinary legal representation of parents and children in the dependency system. It requires the Department of Children and Families (DCF) to collaborate on implementation and provide existing federal matching funding. Information will be reported annually to the Office of Program Policy Analysis (OPPAGA), who must submit an annual report to the Governor, the President of the Senate and the Speaker of the House of Representatives.

The bill adds requirements for the DCF related to resources and support for foster parents and relative caregivers, including the establishment of the current Foster Information Center.

The DCF projects that the bill will have a significant negative fiscal impact on state government relating to the expansion of the use of the CIRRT process by requiring deployment for reports of allegations of sexual abuse of a child if the child or another child in his or her family was the subject of a verified report of abuse or neglect in the previous 12 months. The DCF<sup>1</sup> estimates the need for an additional 107 FTE positions to conduct the additional CIRRTs required by the bill. The department anticipates the recurring cost for the additional staff to be \$10.8 million. Additionally, to the extent that the OCCCRCs establish multidisciplinary legal representation programs, federal matching funds may be earned by the OCCCRCs via the DCF Title IV-E federal grant. See section V. Fiscal Impact Statement

The bill is effective October 1, 2021.

## **II. Present Situation:**

Refer to Section III (Effect of Proposed Changes) for discussion of the relevant portions of current law.

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<sup>1</sup> The DCF, *Agency Analysis for SB 96*, p. 9, March 5, 2021 (on file with the Senate Appropriations Subcommittee on Health and Human Services).

### III. Effect of Proposed Changes:

#### Reporting Requirements and Intake Process (Sections 1, 2, 5, and 18)

In 1962, Dr. C. Henry Kempe and his colleagues were among the first to recognize and publicize their findings relating to child abuse and neglect in a paper titled “The Battered-Child Syndrome”.<sup>2</sup> This paper, amendments to the Social Security Act of 1935, and two small meetings held by the Children’s Bureau (CB) were defining moments in that year which lead to four states implementing reporting laws in 1963 and all states implementing them by 1967.<sup>3</sup>

In 1962, the Social Security Act of 1935 was amended to provide money to expand child welfare services. The federal Child Abuse Prevention and Treatment Act (CAPTA)<sup>4</sup> enacted in 1974 authorized federal funds to improve the state response to physical abuse and neglect, which was most recently reauthorized in 2010<sup>5</sup> and has been amended several times, most recently in 2019.<sup>6,7</sup> CAPTA requires states to submit a plan to receive grant funds which must contain provisions and procedures for an individual to report known and suspected instances of child abuse and neglect, including mandatory reporting laws of such instances.<sup>8</sup> Florida law currently provides for a central abuse hotline and mandatory reporting requirements under s. 39.201, F.S.

#### *Central Abuse Hotline*

The DCF is required to operate and maintain a central abuse hotline<sup>9</sup> to receive mandatory reports of known or suspected instances of child abuse,<sup>10</sup> abandonment,<sup>11</sup> or neglect,<sup>12</sup> or

<sup>2</sup> Kempe, Henry, *The Battered Child Syndrome*, available at [https://www.kempe.org/wp-content/uploads/2015/01/The\\_Battered\\_Child\\_Syndrome.pdf](https://www.kempe.org/wp-content/uploads/2015/01/The_Battered_Child_Syndrome.pdf); the Kempe Center for the Prevention and Treatment of Child Abuse and Neglect, *History Innovating for 45 Years*, available at <https://www.kempe.org/about/history/#:~:text=Innovating%20for%2045%20Years%20In%201962%2C%20Dr.%20C..awareness%20and%20exposing%20the%20reality%20of%20child%20abuse> (all sites last visited March 1, 2021).

<sup>3</sup> Myers, John, *A Short History of Child Protection in America*, September 2008, p. 10, available at [https://us.sagepub.com/sites/default/files/upm-binaries/35363\\_Chapter1.pdf](https://us.sagepub.com/sites/default/files/upm-binaries/35363_Chapter1.pdf) (last visited March 1, 2021).

<sup>4</sup> Pub.L. 93-247.

<sup>5</sup> Pub.L. 111-320.

<sup>6</sup> Pub.L. 115-424; Children’s Bureau, *Factsheet: About CAPTA: A Legislative History*, February 2019, p. 1, available at <https://www.childwelfare.gov/pubpdfs/about.pdf> (last visited March 1, 2021).

<sup>7</sup> 42 U.S.C. ch. 67.

<sup>8</sup> 42 U.S.C. s. 5106a(1)(A) and (b)(2)(B)(i).

<sup>9</sup> Hereinafter cited as “hotline”. Fla. Admin. Code R. 65C-30.001, defines “Florida Abuse Hotline” to mean the DCF’s central abuse reporting intake assessment center, which receives and processes reports of known or suspected child abuse, neglect or abandonment 24 hours a day, seven days a week.

<sup>10</sup> Section 39.01(2), F.S., defines “abuse” as any willful act or threatened act that results in any physical, mental, or sexual abuse, injury, or harm that causes or is likely to cause the child’s physical, mental, or emotional health to be significantly impaired.

<sup>11</sup> Section 39.01(1), F.S., defines “abandoned” or “abandonment” as a situation in which the parent or legal custodian of a child or, in the absence of a parent or legal custodian, the caregiver, while being able, has made no significant contribution to the child’s care and maintenance or has made no significant contribution to the child’s care and maintenance or has failed to establish or maintain a substantial and positive relationship with the child, or both. “Establish or maintain a substantial and positive relationship” means, in part, frequent and regular contact with the child, and the exercise of parental rights and responsibilities.

<sup>12</sup> Section 39.01(50), F.S., states “neglect” occurs when a child is deprived of, or is allowed to be deprived of, necessary food, clothing, shelter, or medical treatment or a child is permitted to live in an environment when such deprivation or environment causes the child’s physical, mental, or emotional health to be significantly impaired or to be in danger of being significantly

instances when a child does not have a parent, legal custodian or adult relative available to provide supervision and care.<sup>13</sup> The hotline must operate 24 hours a day, 7 days a week, and accept reports in writing, via fax or web-based reporting<sup>14</sup> or web-based chat, or through a single statewide toll-free telephone number.<sup>15</sup> The DCF is required to conduct a study to determine the feasibility of using text and short message service formats to receive reports.<sup>16</sup> The DCF is required to promote awareness of the hotline.<sup>17</sup>

The hotline must operate in a manner that will allow the DCF to:

- Immediately identify prior cases or reports through utilizing a tracking system;
- Monitor and evaluate the effectiveness of the DCF's reporting and investigation program through the development and use of statistical and other information;
- Track critical steps in the investigative process to ensure compliance with all reporting requirements;
- Collect, analyze, and produce statistical reports, including an aggregate report on patterns of child abuse, abandonment, and neglect, including child-on-child sexual abuse;
- Prepare separate reports, as required under s. 39.201(4)(d), F.S., of child abuse and sexual abuse which are reported from or occurred on the campus of any Florida College System institution,<sup>18</sup> state university,<sup>19</sup> or nonpublic college, university, or school, as defined in ss. 1000.21 and 1005.02, F.S.;
- Provide resources for the evaluation, management, and planning of preventive and remedial services for children who have been subject to abuse, abandonment, or neglect; and
- Initiate and enter into agreements with other states to gather and share information contained in reports on child maltreatment.<sup>20</sup>

Information received by the hotline may not be used for employment screening except in specified instances.<sup>21</sup> As part of the DCF's quality assurance program, it is required to review hotline reports to analyze when there are three or more unaccepted reports to identify patterns and initiate a case for investigation, if warranted.<sup>22</sup>

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impaired, except when such circumstances are caused primarily by financial inability unless services have been offered and rejected by such person.

<sup>13</sup> Section 39.201(4), F.S.

<sup>14</sup> Section 39.201(2)(j), F.S., requires the DCF to update the web-based reporting form to include fields for specified information and allow a reporter to save and return to a report at a later time.

<sup>15</sup> Section 39.201(4) and (5), F.S.

<sup>16</sup> Section 39.201(2)(k), F.S.

<sup>17</sup> Section 39.201(4), F.S.

<sup>18</sup> Section 1000.21(3), F.S., provides the term "Florida College System institution" except as otherwise specifically provided, includes a list of specified public postsecondary educational institutions in the Florida College System and any branch campuses, centers, or other affiliates of the institution, including, for instance, Eastern Florida State College, which serves Brevard County, and Broward College, which serves Broward County.

<sup>19</sup> Section 1000.21(6), F.S., provides the term "State University", except as otherwise specifically provided, includes a list of specified institutions and any branch campuses, centers, or other affiliates of the institution, including, for instance, The University of Florida, The Florida State University and The Florida Agricultural and Mechanical University.

<sup>20</sup> Section 39.201(4)(a) through (f), F.S.

<sup>21</sup> Section 39.201(6), F.S.

<sup>22</sup> Section 39.201(7), F.S.

### ***Mandatory Reporting***

Current law requires an individual to make a report to the hotline if he or she knows or has reasonable cause to suspect that:

- A child has been abused, abandoned, or neglected by a parent, legal custodian, caregiver, or other person responsible for the child's welfare or that a child has no parent, legal custodian, or responsible adult relative immediately known and available to provide supervision and care;
- A child has been abused by an adult other than a parent, legal custodian, caregiver, or other person responsible for the child's welfare; or
- A child is the victim of sexual abuse or the victim of a known or suspected juvenile sexual offender.<sup>23</sup>

Florida law provides for exceptions to reporting requirements in specified circumstances:<sup>24</sup>

- Professionals who are hired or contracted by the DCF to provide treatment or counseling services to a child that are the subject of the abuse, abandonment, or neglect;
- An officer or employee of the judicial branch when the child is currently being investigated, is the subject of an existing dependency case, or the matter has previously been reported to the DCF; or
- An officer or employee of law enforcement when the incident under investigation was reported to law enforcement by the hotline.<sup>25</sup>

Chapter 39, F.S., does not require a reporter to disclose his or her identity to the hotline, but the hotline personnel must receive training in encouraging such disclosure.<sup>26</sup> There is a list of specified reporters, however, which must disclose his or her name.<sup>27</sup> The DCF is required to have technology that allows it to automatically obtain the number from which the reporter calls or faxes the report, or the internet protocol address from which the report is made.<sup>28</sup> Reporter names and numbers are entered into the record of the report, but are held confidential.<sup>29</sup> Hotline counselors must inform reporters of these confidentiality provisions.<sup>30</sup>

Any person required to report or investigate child abuse, abandonment or neglect cases, and has reasonable cause to suspect that a child died as a result of such treatment, must report his or her suspicion to the medical examiner. The examiner must accept the report for investigation and

<sup>23</sup> Section 39.201(1), F.S.

<sup>24</sup> Section 39.201(1)(g), F.S., provides that nothing in ch. 39, F.S., may be construed to remove or reduce any person's reporting requirement, including any employee of a community-based care provider.

<sup>25</sup> Section 39.201(1), F.S.

<sup>26</sup> Section 39.201(2)(h), F.S.

<sup>27</sup> Section 39.201(1)(d), F.S., requires the following occupational categories to disclose their names: physicians, osteopathic physician, medical examiner, chiropractic physician, nurse or hospital personnel engaged in the admission, examination, care or treatment of persons; health or mental health professional not already listed; practitioner who relies solely on spiritual means for healing; school teacher or other school official or personnel; social worker, day care center worker, or other professional child care, foster care, residential, or institutional worker; law enforcement officer; or judge.

<sup>28</sup> Section 39.201(2)(h), F.S.

<sup>29</sup> *Id.* See also s. 39.202, F.S., which is discussed in more detail below. Section 39.201(2)(i), F.S., provides that the DCF must record all incoming and outgoing calls to the hotline, and must keep an electronic copy which must only be disclosed to law enforcement, state attorney, or the DCF for purposes of conducting investigations pursuant to s. 39.205, F.S., or s. 39.206, F.S.

<sup>30</sup> *Id.*

report any findings to the designated agencies.<sup>31</sup> Autopsy reports are not subject to confidentiality requirements provided for in s. 39.202, F.S.<sup>32</sup>

### ***Initial Intake Process***

A report to the hotline is the first step that must be taken to initiate a safety assessment and an investigation.<sup>33</sup> The type of alleged abuse and whether the allegation is against a parent, legal custodian, caregiver, or other person responsible for the child's welfare will determine the steps that the DCF is required to take.<sup>34</sup>

When allegations are made against a parent, legal custodian, caregiver,<sup>35</sup> or other person responsible for the child's welfare,<sup>36</sup> the hotline counselor must assess whether the report meets the statutory definition of abuse, abandonment, or neglect.<sup>37</sup> If they do, the report is accepted for a protective investigation.<sup>38</sup> All reports made by an emergency room physician must be investigated.<sup>39</sup> At the same time, the DCF makes a determination regarding the timeline for which a protective investigation must be initiated including, in part:

- Immediately if:
  - It appears the child's immediate safety or well-being is endangered;
  - The family may flee or the child will be unavailable for purposes of conducting a child protective investigation; or
  - The facts otherwise so warrant; or
- Within 24 hours in all other child abuse, abandonment, or neglect cases.<sup>40</sup>

Section 39.201(5), F.S., provides that an alleged perpetrator in an institutional investigation may be represented by an attorney or accompanied by another person if specified conditions are met, but the absence of such person must not prevent the DCF from conducting an investigation. If an institution is not operating and the child is unable to be located, the investigation must begin immediately upon the resumption of operations. The DCF must provide all investigative reports relating to the abuse report to any state attorney or law enforcement agency upon request.

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<sup>31</sup> Section 39.201(3), F.S.

<sup>32</sup> *Id.*

<sup>33</sup> Section 39.201(4), F.S.

<sup>34</sup> *See* s. 39.201(2)(a) and (b), F.S.

<sup>35</sup> Section 39.01(10), F.S., defines "caregiver" as the parent, legal custodian, permanent guardian, adult household member, or other person responsible for a child's welfare as defined in subsection (54).

<sup>36</sup> Section 39.01(54), F.S., defines "other person responsible for a child's welfare" to include the child's legal guardian or foster parent; an employee of any school, public or private child day care center, residential home, institution, facility, or agency; a law enforcement officer employed in any facility, service, or program for children that is operated or contracted by the Department of Juvenile Justice, with exceptions of specified personnel working in their official capacity.

Section 39.201(2)(f), F.S., requires reports of known or suspected institutional child abuse or neglect to be made in the same manner as other reports under s. 39.201, F.S.

<sup>37</sup> Section 39.201(2)(a), F.S.

<sup>38</sup> *Id.*

<sup>39</sup> Section 39.201(2)(l), F.S.

<sup>40</sup> Section 39.201(5), F.S.

There are instances when the DCF is immediately required to refer the report to local law enforcement,<sup>41</sup> and other instances when the DCF is required to provide voluntary community services.<sup>42</sup> The DCF has other specific requirements with respect to reports of the following:

- Reports involving juvenile sexual abuse or a child who has exhibited inappropriate sexual behavior, including to:
  - Immediately electronically transfer the report to the appropriate county sheriff's office;
  - Conduct an assessment and assist the family with receiving appropriate services;
  - Submit a written report within 48 hours to the county sheriff's office; and
  - Inform the court of the allegations if the child is in the custody or under the protective supervision of the DCF.
- Reports of abuse, abandonment, or neglect which occur out-of-state and the alleged perpetrator and victim child are out-of-state;<sup>43</sup> and
- Reports of a surrendered newborn infant.<sup>44, 45</sup>

### ***Penalties for Failing to Report Child Abuse***

Current law provides that a person is subject to penalties for failing to report known or suspected child abuse, abandonment, or neglect, or for willfully preventing another person from making such report.<sup>46</sup> Any person who violates this law commits a third degree felony.<sup>47</sup>

Florida law also provides that 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, or aggravated child abuse, and knowingly and willfully fails to report the child abuse, commits a third degree felony, unless the court finds that the person is a victim of domestic violence or that other mitigating circumstances exist.<sup>48</sup>

Educational entities, including Florida College System institutions, state universities, or nonpublic colleges, universities or schools, and their administrators, are also currently subject to

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<sup>41</sup> See s. 39.201(2)(b) and (e), F.S., which provides that reports of abuse by an adult other than a parent, legal custodian, caregiver, or other person responsible for the child's welfare, and reports involving impregnation of a child under 16 years old by a person 21 years of age or older, must be immediately reported to the appropriate county sheriff.

<sup>42</sup> See s. 39.201(2)(a), F.S., which permits the hotline to accept a call from a parent or legal custodian seeking assistance which does not meet one of these statutory definitions to prevent a future risk of harm to a child and the DCF may provide voluntary community services if a need for them exists.

<sup>43</sup> Section 39.201(2)(d), F.S., provides that unless the child is currently being evaluated in a medical facility in Florida, the hotline must not accept the report but is required to transfer the information to the appropriate state or country. If the child is being currently evaluated in a medical facility in Florida, the hotline must accept the report or call for an investigation and transfer the information to the appropriate state or country.

<sup>44</sup> Section 383.50, F.S., provides that "newborn infant" means a child who a licensed physician reasonably believes is approximately 7 days old or younger at the time the child is left at a hospital, emergency medical services station, or fire station.

<sup>45</sup> Section 39.201(2)(g), F.S., provides that the DCF must make and receive reports of surrendered newborn infants, refer the caller to a licensed child-placing agency on a rotating basis, and comply with the requirements under s. 39.395, F.S., including, in part, immediately beginning an investigation if there is evidence of any abuse or neglect beyond the child being left at one of the designated facilities; if there is no other evidence, the report will not be considered abuse, abandonment or neglect under ch. 39, F.S.

<sup>46</sup> Section 39.205(1), F.S.

<sup>47</sup> Section 39.205(1), F.S. A third degree felony is punishable by up to five years imprisonment and up to a \$5,000 fine. Sections 775.082, 775.083, and 775.084, F.S.

<sup>48</sup> Section 39.205(2), F.S.

penalties for failing to report child abuse, neglect or abandonment.<sup>49</sup> These schools or their administrators who 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 these schools or during an event sponsored by one of these schools, or who knowingly and willfully prevent another person from doing so, are subject to fines of \$1 million for each failure.<sup>50</sup> The fines are to be assessed as follows:

- A Florida College System institution subject to a fine shall be assessed by the State Board of Education.
- A state university subject to a fine shall be assessed by the Board of Governors.
- A nonpublic college, university, or school subject to a fine shall be assessed by the Commission for Independent Education.<sup>51</sup>

### ***Education Practices Commissions***

Current law provides the Education Practices Commission (EPC) with authority to discipline specified instructional personnel<sup>52</sup> and school administrators<sup>53</sup> in various circumstances.<sup>54</sup> The EPC may, for instance, suspend an educator certificate for up to 5 years which would deny the holder of the certificate the right to teach or be employed in any capacity by a district school board or public school which would require direct contact with students for that time period.<sup>55</sup> There are a number of circumstances that are grounds for suspending an educator certificate.<sup>56</sup>

Florida law is currently silent on whether the EPC must suspend an instructional personnel's or school administrators' educator certificate for failing to report child abuse, abandonment, or neglect as required under s. 39.201, F.S.

### ***Effect of the Bill***

The bill reorganizes, clarifies, and relocates, in part, s. 39.201, F.S., as follows:

- Section 39.101, F.S. provides for the following sections relating to the hotline:
  - Operation and maintenance in s. 39.101(1), F.S.;
  - Timelines for initiating an investigation in s. 39.101(2), F.S.;
  - Use of information received by the hotline in s. 39.101(3), F.S.; and

<sup>49</sup> Section 39.205(3), F.S.

<sup>50</sup> *Id.* Current law also provides that any Florida College System institution, state university, or nonpublic college, university, or school, as defined in s. 1000.21 or s. 1005.02, whose law enforcement agency fails to report known or suspected child abuse, abandonment, or neglect committed on the property of such schools or during an event sponsored by such schools are subject to fines of \$1 million for each such failure to report. Section 39.205(4), F.S.

<sup>51</sup> Section 39.205(3), F.S.

<sup>52</sup> Section 1012.01(2), F.S., defines "instructional personnel" as any K-12 staff member whose function includes the provision of direct instructional services to students. Instructional personnel also includes K-12 personnel whose functions provide direct support in the learning process of students. Instructional personnel include a specified list of personnel of K-12.

<sup>53</sup> Section 1012.01(3)(c), F.S., provides that "school administrators" includes school principals or school directors who are staff members performing the assigned activities as the administrative head of a school and to whom have been delegated responsibility for the coordination and administrative direction of the instructional and noninstructional activities of the school. This classification also includes career center directors and assistance principals who are staff members assisting the administrative head of the school. This classification also includes assistant principals for curriculum and administration.

<sup>54</sup> Section 1012.795(1), F.S.

<sup>55</sup> *Id.*

<sup>56</sup> See s. 1012.795(1), F.S., for a list of circumstances.



- Quality assurance in s. 39.101(4), F.S.
- Section 39.201, F.S., provides for the following sections relating to reporting requirements:
  - Required reporting in s. 39.201(1), F.S.;
  - Exceptions to reporting in s. 39.201(2), F.S.;
  - Additional circumstances relating to reporting in s. 39.201(3), F.S.;
  - Reports of child abuse, neglect or abandonment by a parent or caregiver in s. 39.201(4), F.S.;
  - Reports of sexual abuse of a child, juvenile sexual abuse, or a child who has exhibited inappropriate sexual behavior in s. 39.201(5), F.S.; and
  - Mandatory reports of a child death in s. 39.201(6), F.S.

### Operation and Maintenance (Section 1)

The bill removes the DCF's responsibility to determine the feasibility of using text and short message service formats to receive reports.

The bill clarifies in s. 39.101(1)(a), F.S., that mandatory reports of child abuse, abandonment, or neglect must be made "immediately," whereas current law is silent on the time in which the reports must be made.

In addition to incidents that occur at a Florida College System institution or a state university, s. 39.101(3), F.S., adds to the list of schools or school events the DCF must collect and analyze data on, and include in the separate statistical reports of instances of child abuse and sexual abuse, as follows:

- 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<sup>57</sup> or a public school prekindergarten provider;<sup>58</sup>
- At a public K-12 school;<sup>59</sup>
- At a private school;<sup>60</sup> or

<sup>57</sup> Section 1002.51(7), F.S., defines "private prekindergarten provider" as a provider other than a public school which is eligible to deliver the school-year prekindergarten program under s. 1002.55, F.S., or the summer prekindergarten program under s. 1002.61, F.S.

<sup>58</sup> Section 1002.51(8), F.S., states "public school prekindergarten provider" includes a traditional public school or a charter school that is eligible to deliver the school-year prekindergarten program under s. 1002.63, F.S., or the summer prekindergarten program under s. 1002.61, F.S.

<sup>59</sup> Section 1000.04(1), F.S., states "public K-12 schools" include charter schools and consist of kindergarten classes; elementary, middle, and high school grades and special classes; virtual instruction programs; workforce education; career centers; adult, part-time, and evening schools, courses, or classes, as authorized by law to be operated under the control of district school boards; and lab schools operated under the control of state universities.

<sup>60</sup> Section 1002.01(2), F.S., defines "private school" as a nonpublic school defined as an individual, association, copartnership, or corporation, or department, division, or section of such organizations, that designates itself as an educational center that includes kindergarten or a higher grade or as an elementary, secondary, business, technical, or trade school below college level or any organization that provides instructional services that meet the intent of s. 1003.01(13), F.S., or that gives preemployment or supplementary training in technology or in fields of trade or industry or that offers academic, literary, or career training below college level, or any combination of the above, including an institution that performs the functions of the above schools through correspondence or extension, except those licensed under ch. 1005, F.S. A private

- At any school.<sup>61</sup>

### Reporting Requirements (Section 2)

The bill also amends s. 39.201(2)(c), F.S., relating to reports of juvenile sexual abuse or a child who has exhibited inappropriate sexual behavior and relocates the law to a new s. 39.201(5), F.S., and requires the DCF to comply with the following new requirements:

- Provide services in the least restrictive environment possible and include child advocacy center services pursuant to s. 39.3035, F.S.,<sup>62</sup> and sexual abuse treatment programs developed and coordinated by the Children’s Medical Services Program pursuant to s. 39.303, F.S.;
- Conduct a protective investigation for allegations of childhood sexual abuse or juvenile sexual abuse which occur on or at the schools or school events listed in the newly created s. 39.101(3)(f)2., F.S.,<sup>63</sup> and requires that the investigation include an interview with the child’s parent or legal guardian;
- Notify the DOE, the law enforcement agency having jurisdiction over the municipality or county in which the school is located and, as appropriate, the superintendent of the school district where the school is located, the administrative officer of the private school, or the owner of the private school readiness or prekindergarten provider; and
- Prepare a written report to the law enforcement agency within 3 working days after making the oral report. Any criminal investigation must be coordinated with the DCF’s child protective investigation, whenever possible. Any interested person who has relevant information relating to the abuse may forward a statement to the DCF.

Section 39.201(1)(b)2.h., F.S., is created to require an animal control officer as defined in s. 828.27, F.S., or agent appointed under s. 828.03, F.S., to disclose his or her name when he or she makes a report to the hotline.

The Florida Administrative Code will have to be amended to define the role and responsibilities of the hotline, and rules regarding child protective investigators<sup>64</sup> will need to be amended to reflect new rules, definitions, and provisions contained in the proposed bill.

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school may be a parochial, religious, denominational, for-profit, or nonprofit school, but does not include home education programs conducted in accordance with s. 1002.41, F.S. *Id.*

<sup>61</sup> Section 1005.02(16), F.S., defines “school” as any nonpublic postsecondary noncollegiate educational institution, association, corporation, person, partnership, or organization of any type which: (a) offers to provide or provides any complete, or substantially complete, postsecondary program of instruction through the student’s personal attendance; in the presence of an instructor; in a classroom, clinical, or other practicum setting; or through correspondence or other distance education; (b) represents, directly or by implication, that the instruction will qualify the student for employment in an occupation for which a degree is not required in order to practice in this state; (c) receives remuneration from the student or any other source based on the enrollment of a student or the number of students enrolled; or (d) offers to award or awards a diploma, regardless of whether it conducts instruction or receives remuneration.

<sup>62</sup> See below for further discussion on this section of the Florida Statutes.

<sup>63</sup> SB 7000 (2020) included a provision in s. 39.201(1)(a)3.c., F.S., that is identical to the provision created in s. 39.201(3)(f)2., F.S., of this bill. The DCF reported in its agency analysis dated October 17, 2019 that the provision of s. 39.201(1)(a)3.c. codifies the current practice of conducting investigations of child-on-child sexual reports that occur at specified events or on school grounds. The DCF, *Agency Analysis for SB 7000*, p. 4, October 17, 2019 (on file with the Senate Committee on Children, Families, and Elder Affairs) (hereinafter cited as the “The DCF SB 7000 (2020) Analysis”).

<sup>64</sup> Fla. Admin. Code R. 65C-30.001 defines a “child protective investigator” as a child welfare professional who is responsible for investigating alleged child maltreatment and conducting assessments regarding the safety of children.

### Penalties (Sections 5 and 18)

The bill amends s. 39.205(4), F.S., to clarify that nothing in that section may be construed to remove or reduce the requirement of any faculty, staff, or other employee of the following institutions, to directly report a known or suspected case of child abuse, abandonment, neglect or the sexual abuse of a child<sup>65</sup> to the hotline:

- School readiness program provider determined to be eligible under s. 1002.88, F.S.;
- Private prekindergarten provider or a public school prekindergarten provider;
- Public K-12 school;
- Home education program or private school;
- Florida College System institution or a state university;
- College; or
- School.

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

The bill amends s. 1012.795, F.S., requiring the EPC to suspend for not less than one year the educator certificate of instructional personnel or school administrator if the DCF finds that he or she knowingly failed to report child abuse pursuant to s. 39.201, F.S., and the EPC has issued a final order in accordance with ch. 120, F.S., for a previous instance of failure to report by the individual.

### **Institutional Child Abuse, Abandonment, or Neglect (Section 7)**

Florida law provides that the DCF must conduct a child protective investigation of any reported institutional child abuse, abandonment, or neglect.<sup>66</sup> Upon receipt of such report, the DCF must initiate an investigation within the time provided in s. 39.201(5), F.S., and must notify the state attorney, law enforcement agency, and licensing agency that must conduct a joint investigation, unless independent investigations are more feasible.<sup>67</sup>

The DCF must give each agency who is conducting a joint investigation full access to the information it has gathered, and provide an oral and written report to the state attorney.<sup>68</sup> The

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<sup>65</sup> Section 39.01(77), F.S., defines “sexual abuse of a child” for purposes of finding a child to be dependent as one or more of the following acts: (a) any penetration, however slight, of the vagina or anal opening of one person by the penis of another person, whether or not there is the emission of semen; (b) any sexual contact between the genitals or anal opening of one person and the mouth or tongue of another person; (c) any intrusion by one person into the genitals or anal opening of another person, including the use of any object for this purpose, except that this does not include any act intended for a valid medical purpose; or (d) the intentional touching of the genitals or intimate parts, including the breasts, genital area, groin, inner thighs, and buttocks, or the clothing covering them, of either the child or the perpetrator with specified exceptions; (f) the intentional exposure of the perpetrator’s genitals in the presence of a child, or any other sexual act intentionally perpetrated in the presence of a child, if such exposure or sexual act is for the purpose of sexual arousal or gratification, aggression, degradation, or other similar purpose; or (g) the sexual exploitation of a child, which includes the act of a child offering to engage in or engaging in prostitution, or the act of allowing, encouraging, or forcing a child to engage in specified acts.

<sup>66</sup> Section 39.302(1), F.S.

<sup>67</sup> *Id.*

<sup>68</sup> *Id.*

state attorney must also provide the DCF with a copy of its report and conclusion on whether prosecution is justified and appropriate within 15 days after the investigation is completed.<sup>69</sup>

If the person who is the subject of the report constitutes a continued threat of harm to the welfare of children by continued contact with them, the DCF may restrict his or her access by the least restrictive means necessary to ensure the children's safety. Such restriction may be effective for no more than 90 days without a judicial review.<sup>70</sup> The subject may petition the court for a judicial review and the court would be required to make specified findings.<sup>71</sup> Upon completion of its protective investigation, the DCF may motion the court to continue the restrictive action against the subject to ensure the children's safety.<sup>72</sup>

### ***Effect of the Bill***

The bill amends s. 39.302, F.S., with respect to institutional investigations to provide:

- The alleged perpetrator may be represented by an attorney or accompanied by another person if specified conditions are met;
- The absence of such person does not prevent the DCF from proceeding with other aspects of the investigation;
- If the institution is not operational and the child is unable to be located, the investigation must commence immediately upon the institution reopening; and
- The DCF must provide copies of all investigative reports to a state attorney or law enforcement agency upon request.

### **Critical Incident Rapid Response Team (Section 3)**

The investigative process required by critical incident rapid response teams (CIRRT) was created by the Legislature in 2014,<sup>73</sup> with the purpose of identifying root causes to rapidly determine the need to change policies and practices related to child protection and improving Florida's child welfare system.<sup>74</sup> The CIRRT must immediately investigate certain child deaths or other serious incidents.<sup>75</sup> CIRRT reviews take into consideration the family's entire child welfare history, with specific attention to the most recent child welfare involvement and events surrounding the fatality, including the most recent verified incident of abuse or neglect. The DCF secretary has the discretion to direct an immediate investigation for other cases involving death or serious injury to a child.<sup>76</sup>

Florida law outlines the duties and composition of the teams which require cooperative agreements with other entities and organizations to facilitate their work.<sup>77</sup> The DCF secretary is required to develop guidelines and provide training to the CIRRT, and direct them to conduct a

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<sup>69</sup> Section 39.302(1), F.S.

<sup>70</sup> Section 39.302(2)(b), F.S.

<sup>71</sup> *Id.*

<sup>72</sup> *Id.*

<sup>73</sup> Chapter 2014-224, Laws of Fla.

<sup>74</sup> Section 39.2015(1), F.S.

<sup>75</sup> *Id.*

<sup>76</sup> *Id.*

<sup>77</sup> Section 39.2015(7), F.S.

root-cause analysis for each incident.<sup>78</sup> In addition, the secretary is directed to appoint an advisory committee to conduct an independent review of the CIRRT reports and submit quarterly reports to the secretary, who is required to provide the reports to the Governor, the President of the Senate, and the Speaker of the House of Representatives.<sup>79</sup>

The CIRRT reports must be published on the DCF website.<sup>80</sup> In 2021, the CIRRT has begun investigations of four deaths of children who have verified prior reports of the child or family in the past 12 months.<sup>81</sup> Of the four investigations, a 1 ½ year old child’s cause of death was determined to be drowning but the report is pending.<sup>82</sup> The other three investigations are ongoing.<sup>83</sup>

### ***Effect of the Bill***

The bill amends s. 39.2015, F.S., requiring the CIRRT to investigate allegations of sexual abuse of a child if the child or another child in his or her family was the subject of a verified report of suspected abuse or neglect during the previous 12 months, including any child who is in the custody of or under the supervision of the DCF. The bill also amends the composition of the CIRRT to include a representative from a child advocacy center pursuant to s. 39.3035, F.S., who has specialized training in sexual abuse, or permits a combination of such specialists, if deemed appropriate.

### **Confidentiality of Reports and Records (Section 4)**

Except as otherwise provided in ch. 39, F.S., the DCF must keep confidential all records relating to any reports of child abuse, abandonment, or neglect, including any report made to the hotline and all records generated as a result of such report.<sup>84</sup> The DCF and any entity granted access to such records are exempt<sup>85</sup> from the public disclosure requirements in s. 119.07(1), F.S.<sup>86</sup>

Section 39.202(2), F.S., provides that copies of reports and records, except for the reporter’s name and other identifying information, may be disclosed, to the following entities or individuals if the following conditions are met:

<sup>78</sup> Section 39.2015(10), F.S.

<sup>79</sup> Section 39.2015(11), F.S.

<sup>80</sup> Section 39.2015(9), F.S.

<sup>81</sup> The DCF, *Total Child Fatalities with a Critical Incident Rapid Response Team Response in 2021: 4*, available at <https://www.myflfamilies.com/childfatality/cirrtresults.shtml?minage=0&maxage=18&year=2021&cause=&prior12=&verified> (last visited March 1, 2021).

<sup>82</sup> *Id.*

<sup>83</sup> *Id.*

<sup>84</sup> Section 39.202(1), F.S.

<sup>85</sup> When creating a public records exemption, the Legislature may provide that a record is “exempt” or “confidential and exempt.” Custodians of records designated as “exempt” are not prohibited from disclosing the record; rather, the exemption means that the custodian cannot be compelled to disclose the record. *See Williams v. City of Minneola*, 575 So. 2d 683, 687 (Fla. 5th DCA 1991). Custodians of records designated as “confidential and exempt” may not disclose the record except under circumstances specifically defined by the Legislature. *WFTV, Inc. v. The School Board of Seminole*, 874 So. 2d 48 (Fla. 5th DCA 2004).

<sup>86</sup> *Id.*

- Employees, authorized agents, or contract providers of the DCF, the Department of Health, the Agency for Persons with Disabilities, the Office of Early Learning, or county agencies responsible for carrying out certain functions;
- Criminal justice agencies of appropriate jurisdictions;
- The state attorney of the judicial circuit in which the child resides or in which the alleged abuse or neglect occurred;
- The parent or legal custodian of any child and their attorneys, including any attorney representing a child in civil or criminal proceedings;
- Any person alleged to have caused the child’s abuse, abandonment, or neglect; and
- Any appropriate official of the DCF or the Agency for Persons with Disabilities who is responsible for carrying out certain functions.

The DCF may not release the name or identifying information of a person who reports child abuse, abandonment, or neglect, except to employees of the specified agencies, without written consent of the person reporting.<sup>87</sup> The court, state attorney, or the DCF are permitted to subpoena the reporter when deemed necessary provided the fact that such person made the report is not disclosed.<sup>88</sup> Any person who reports child abuse or neglect may request at the time of the report to receive notice of the result of the protective investigation, and any person listed in s. 39.201(1), F.S., who makes a report in his or her official capacity may also request a written summary of the outcome of the investigation which shall be mailed to the reporter within 10 days after the investigation is completed.<sup>89</sup>

Chapter 39, F.S., is silent on whether the Florida Legislature or their committee members may have access to the confidential reports and records. Section 11.143(2), F.S., however, provides that each committee has the right and authority to inspect and investigate, in part, the books, records, papers, documents, data, and operation of any public agency in Florida, including confidential information, to carry out its duty.

### ***Effect of the Bill***

The bill amends s. 39.202(2)(u), F.S., to include members of standing or select legislative committees as persons who are entitled to have access to the confidential reports and records, except for reporter name and identifying information unless permitted, to carry out their duties as provided for in s. 11.143(2), F.S. Access to the records must be granted within 7 business days upon request of the member.

### **Animal Cruelty and Child Abuse (Sections 6 and 13-17)**

Recent studies suggest a link between animal<sup>90</sup> abuse and harm to other persons.<sup>91</sup> Statistics support a connection between animal cruelty and violence against other humans:

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<sup>87</sup> Section 39.202(5), F.S.

<sup>88</sup> *Id.*

<sup>89</sup> *Id.*

<sup>90</sup> Section 828.27(1)(a), F.S., defines “animal” as any living dumb creature.

<sup>91</sup> See Animal Legal Defense Fund, *The Link Between Cruelty to Animals and Violence Toward Humans*, available at <https://aldf.org/article/the-link-between-cruelty-to-animals-and-violence-toward-humans-2/> (hereinafter cited as “The ALDF Article”) (last visited March 1, 2021).

- Animal abusers are five times as likely to harm humans;<sup>92</sup>
- Sixty percent of families under investigation for child abuse, and 88 percent for physical child abuse, reported animal cruelty;<sup>93</sup> and
- Children who abuse animals are 2-3 times more likely to have been abused themselves.<sup>94</sup>

While some researchers disagree,<sup>95</sup> the National School Safety Council, the U.S. Department of Education, 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.<sup>96</sup>

### ***Animal Control Ordinances***

Government municipalities have the authority to enact ordinances relating to animal control or cruelty within certain specified restrictions or criteria that must be met.<sup>97</sup> If a person violates such duly enacted ordinance, a citation<sup>98</sup> may be issued by an officer,<sup>99</sup> including an animal control officer.

“Animal control officer” means any person employed or appointed by a county or municipality who is authorized to investigate, on public or private property, civil infractions relating to animal control or cruelty<sup>100</sup> and to issue citations.<sup>101</sup> Animal control officers are required to complete a 40-hour minimum standards training course, which must cover specified topics, and 4 hours of post-certification every 2 years thereafter.<sup>102</sup> Animal control officers are not currently required to receive training on child abuse, abandonment, or neglect.

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<sup>92</sup> The ALDF Article.

<sup>93</sup> The National Sheriffs’ Association, *Animal Cruelty and child Abuse*, available at <https://www.sheriffs.org/Animal-Cruelty-and-Child-Abuse> (last visited February 28, 2021).

<sup>94</sup> Lardeiri, A., U.S. News and World Report, *Juvenile Animal Abusers More Likely to Have Been Abused Themselves*, available at <https://www.usnews.com/news/national-news/articles/2018-07-16/juvenile-animal-abusers-more-likely-to-have-been-abused-themselves> (last visited February 28, 2021).

<sup>95</sup> Psychology Today, *Animal Cruelty Does Not Predict Who Will Be A School Shooter*, February 21, 2018, available at <https://www.psychologytoday.com/us/blog/animals-and-us/201802/animal-cruelty-does-not-predict-who-will-be-school-shooter> (last visited March 1, 2021).

<sup>96</sup> The Humane Society of the United States *Animal cruelty and human violence FAQ*, available at <https://www.humanesociety.org/resources/animal-cruelty-and-human-violence-faq> (last visited March 1, 2021).

<sup>97</sup> Section 828.27(2), F.S.

<sup>98</sup> Section 828.27(1)(f), F.S., defines “citation” as a written notice, issued to a person by an officer, that the officer has probable cause to believe that the person has committed a civil infraction in violation of a duly enacted ordinance and that the county court will hear the charge.

<sup>99</sup> Section 828.27(1)(e), F.S., defines “officer” as any law enforcement officer defined in s. 943.10, F.S., or any animal control officer. Section 943.10(1), F.S., defines “law enforcement officer” to mean any person who is elected, appointed, or employed full time by any municipality or the state or any political subdivision thereof; who is vested with authority to bear arms and make arrests; and whose primary responsibility is the prevention and detection of crime or the enforcement of the penal, criminal, traffic, or highway laws.

<sup>100</sup> Section 828.27(1)(d), F.S., defines “cruelty” means any act of neglect, torture, or torment that causes unjustifiable pain or suffering of an animal.

<sup>101</sup> Section 828.27(1)(b), F.S.

<sup>102</sup> Section 828.27(4)(a), F.S.

### ***Cross-Reporting***

A study reported in 1983 found that there are parallels between the potential origins of violence to children and to animals.<sup>103</sup> In a sample of pet-owning child-abusers, 88 percent of the families where child abuse had occurred also abused the animals.<sup>104</sup> A six-year “gold standard” study conducted in 11 cities found that pet abuse is one of four predictors of domestic violence.<sup>105</sup> More than 50 percent of women entering domestic violence shelters reported that their partners abused or killed a family pet.<sup>106</sup>

Several states have adopted cross-reporting laws that require officials investigating child abuse to report animal abuse and officials investigating animal abuse to report child abuse.<sup>107</sup> At least 28 states have counseling provisions in their laws relating to animal cruelty. Four of these states require a person convicted of animal cruelty to participate in psychological counseling and six of them mandate counseling for juveniles convicted of animal cruelty.<sup>108</sup>

Florida law is silent on cross-reporting of known or suspected child abuse, abandonment, or neglect and instances of animal cruelty.

### ***Sexual Activities Involving Animals***

Approximately 46 states have criminal laws that prohibit sexual conduct with animals.<sup>109</sup> Hawaii, New Mexico, West Virginia, and Wyoming do not have state laws against sexual assault of animals.<sup>110</sup> A study of incidents from 1975 to 2015 found that 31.6 percent of animal sex offenders also sexually offended adults and children.<sup>111</sup> Of these offenders, 52.9 percent had a

<sup>103</sup> DeViney, E., Dickert, J., & Lockwood, R (1983), *The Care of Pets within Child Abusing Families*, International Journal for the Study of Animal Problems, 4(4), 321-329, 328, available at [https://www.wellbeingintlstudiesrepository.org/cgi/viewcontent.cgi?article=1014&=&context=acwp\\_apaw&=&sei-redir=1&referer=https%253A%252F%252Fwww.bing.com%252Fsearch%253Fq%253DDeViney%252C%252BE.%252C%252BDickert%252C%252BJ.%252C%252B%252526%252BLockwood%252C%252BR%252B%25281983%2529%252B%2525E2%252580%25259CThe%252Bcare%252Bof%252Bpets%252Bwithin%252Bchild%252Babusing%252Bfamilies.%2525E2%252580%25259D%252BInternational%252BJournal%252Bfor%252Bthe%252BStudy%252Bof%252BAnimal%252BProblems%2526src%253DIE-SearchBox%2526FORM%253DIENAE2#search=%22DeViney%2C%20E.%2C%20Dickert%2C%20J.%2C%20%26%20Lockwood%2C%20R%20%281983%29%20E2%80%9CThe%20care%20pets%20within%20child%20abusing%20families.%E2%80%9D%20International%20Journal%20Study%20Animal%20Problems%22](https://www.wellbeingintlstudiesrepository.org/cgi/viewcontent.cgi?article=1014&=&context=acwp_apaw&=&sei-redir=1&referer=https%253A%252F%252Fwww.bing.com%252Fsearch%253Fq%253DDeViney%252C%252BE.%252C%252BDickert%252C%252BJ.%252C%252B%252526%252BLockwood%252C%252BR%252B%25281983%2529%252B%2525E2%252580%25259CThe%252Bcare%252Bof%252Bpets%252Bwithin%252Bchild%252Babusing%252Bfamilies.%2525E2%252580%25259D%252BInternational%252BJournal%252Bfor%252Bthe%252BStudy%252Bof%252BAnimal%252BProblems%2526src%253DIE-SearchBox%2526FORM%253DIENAE2#search=%22DeViney%2C%20E.%2C%20Dickert%2C%20J.%2C%20%26%20Lockwood%2C%20R%20%281983%29%20E2%80%9CThe%20care%20pets%20within%20child%20abusing%20families.%E2%80%9D%20International%20Journal%20Study%20Animal%20Problems%22) (last visited March 1, 2021).

<sup>104</sup> *Id.* at 327.

<sup>105</sup> The Humane Society of the United States, *Animal Cruelty and Human Violence FAQ*, available at <https://www.humanesociety.org/resources/animal-cruelty-and-human-violence-faq> (last visited March 1, 2021) (hereinafter cited as “Animal Cruelty and Human Violence”).

<sup>106</sup> *Id.*

<sup>107</sup> American Veterinary Medical Association, *Cross-reporting of Animal and Child Abuse*, April 2018, available at <https://www.avma.org/advocacy/state-local-issues/cross-reporting-animal-and-child-abuse> (last visited March 1, 2021).

<sup>108</sup> Animal Cruelty and Human Violence.

<sup>109</sup> Michigan State University, Animal Legal & Historical Center, *Table of State Animal Sexual Assault Laws*,

<sup>110</sup> Animal Legal Defense Fund, *Laws Against the Sexual Assault of Animals*, available at <https://aldf.org/project/sexual-assault-of-animals/> (last visited March 1, 2021).

<sup>111</sup> The Journal of the American Academy of Psychiatry and the Law, *Arrest and Prosecution of Animal Sex Abuse (Bestiality) Offenders in the United States, 1975 – 2015*, May 2019, available at <http://jaapl.org/content/early/2019/05/16/JAAPL.003836-19> (last visited March 1, 2021).



prior conviction involving human sexual abuse, animal abuse, interpersonal violence, substances or property offenses.<sup>112</sup>

Section 828.126(2), F.S., provides that a person may not knowingly:

- Engage in any sexual conduct or sexual contact with an animal;
- Cause, aid, or abet another person to engage in any sexual conduct or sexual contact with an animal;
- Permit any sexual conduct or sexual contact with an animal to be conducted on any premises under his or her charge or control; or
- Organize, promote, conduct, advertise, aid, abet, participate in as an observer, or perform any service in the furtherance of an act involving any sexual conduct or sexual contact with an animal for a commercial or recreational purpose.

“Sexual conduct” is defined as any touching or fondling by a person, either directly or through clothing, of the sex organs or anus of an animal or any transfer or transmission of semen by the person upon any part of the animal for the purpose of sexual gratification or arousal of the person.<sup>113</sup>

“Sexual contact” is defined as any contact, however slight, between the mouth, sex organ, or anus of a person and the sex organ or anus of an animal, or any penetration, however slight, of any part of the body of the person into the sex organ or anus of an animal, or any penetration of the sex organ or anus of the person into the mouth of the animal, for the purpose of sexual gratification or sexual arousal of the person.<sup>114</sup>

A person who violates s. 828.126(2), F.S., commits a first degree misdemeanor.<sup>115</sup>

Section 828.126, F.S., does not apply to accepted animal husbandry practices, conformation judging practices, or accepted veterinary medical practices.<sup>116</sup> Animal husbandry is not defined under s. 828.126, F.S.

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<sup>112</sup> *Id.*

<sup>113</sup> Section 828.126(1)(a), F.S.

<sup>114</sup> Section 828.126(1)(b), F.S.

<sup>115</sup> A first degree misdemeanor is punishable by up to one year in imprisonment or a \$1,000 fine as provided for in s. 775.082, F.S., or s. 775.083, F.S.

<sup>116</sup> Section 828.126(4), F.S.

### *Sexual Performance by a Child*

A person is also guilty of a second degree felony<sup>117</sup> if he or she, knowing the character and content, promotes<sup>118</sup> a sexual performance<sup>119</sup> by a child, who is younger than 18 years old, and produces, directs, or promotes a performance<sup>120</sup> that includes any sexual conduct.<sup>121</sup>

“Sexual conduct” means the actual or simulated<sup>122</sup> sexual intercourse, deviate sexual intercourse,<sup>123</sup> sexual bestiality, masturbation, or sadomasochistic abuse;<sup>124</sup> actual lewd exhibition of the genitals; actual physical contact with a person’s clothed or unclothed genitals, pubic area, buttocks, or, if such person is female, breast, with the intent to arouse or gratify the sexual desire of either party; or any act or conduct which constitutes sexual battery<sup>125</sup> or simulates that sexual battery is being or will be committed.<sup>126</sup> “Sexual bestiality” means any sexual act between a person and an animal involving the sex organ of the one and the mouth, anus, or vagina of the other.<sup>127</sup>

A person who possesses with intent to promote any photograph, motion picture, exhibition, show, representation, or other presentation which includes any sexual conduct by a child is guilty of a second degree felony.<sup>128</sup> Possession of three or more copies of such materials is prima facie evidence of an intent to promote.<sup>129</sup>

<sup>117</sup> A second degree felony is punishable by up to 15 years in imprisonment or a \$10,000 fine as provided for in s. 775.082, F.S., s. 775.083, F.S., or s. 775.084, F.S.

<sup>118</sup> Section 827.071(1)(d), F.S., provides that “promote” means to procure, manufacture, issue, sell, give, provide, lend, mail, deliver, transfer, transmute, publish, distribute, circulate, disseminate, present, exhibit, or advertise or to offer to agree to do the same.

<sup>119</sup> Section 827.071(1)(i), F.S., defines “sexual performance” as any performance or part thereof which includes sexual conduct by a child of less than 18 years of age.

<sup>120</sup> Section 827.071(1)(c), F.S., defines “performance” as any play, motion picture, photograph, or dance or any other visual representation exhibited before an audience.

<sup>121</sup> Section 827.071(3), F.S.

<sup>122</sup> Section 827.071(1)(j), F.S., defines “simulated” as any performance or part thereof which includes sexual conduct by a child of less than 18 years old.

<sup>123</sup> Section 827.071(1)(a), F.S., defines “deviate sexual intercourse” as sexual conduct between persons not married to each other consisting of contact between the penis and the anus, the mouth and the penis, or the mouth and the vulva.

<sup>124</sup> Section 827.071(1)(e), F.S., defines “sadomasochistic abuse” as flagellation or torture by or upon a person, or the condition of being fettered, bound, or otherwise physically restrained, for the purpose of deriving sexual satisfaction from inflicting harm on another or receiving such harm oneself.

<sup>125</sup> Section 827.071(1)(h), F.S., defines “sexual battery” as oral, anal, or vaginal penetration by, or union with, the sexual organ of another or the anal or vaginal penetration of another by any other object; however, “sexual battery” does not include an act done for a bona fide medical purpose.

<sup>126</sup> Section 827.071(1)(h), F.S. A mother’s breastfeeding of her baby does not under any circumstances constitute “sexual conduct.” *Id.*

<sup>127</sup> Section 827.071(1)(g), F.S.

<sup>128</sup> Section 827.071(4), F.S.

<sup>129</sup> *Id.*

Any person who knowingly possesses, controls, or intentionally views<sup>130, 131</sup> a photograph, motion picture, exhibition, show, representation, image, data, computer depiction, or other presentation,<sup>132</sup> which he or she knows to include any sexual conduct by a child commits a third degree felony.<sup>133</sup>

These criminal provisions do not apply to material possessed, controlled, or intentionally viewed as part of a law enforcement investigation<sup>134</sup> and do not prohibit prosecution for such conduct under other laws of Florida, including laws with greater penalties.<sup>135</sup>

### ***Criminal Punishment Code***

The Criminal Punishment Code (Code) is Florida's primary sentencing policy.<sup>136</sup> Noncapital felonies sentenced under the Code receive an offense severity level ranking (Levels 1-10).<sup>137</sup> Points are assigned and accrue based upon the level ranking assigned to the primary offense, additional offenses, and prior offenses. Sentence points escalate as the level escalates. Points may also be added or multiplied for other factors such as victim injury or the commission of certain offenses like a Level 7 or 8 drug trafficking offense. The lowest permissible sentence is any nonstate prison sanction in which total sentence points equal or are less than 44 points, unless the court determines that a prison sentence is appropriate. If total sentence points exceed 44 points, the lowest permissible sentence in prison months is calculated by subtracting 28 points from the total sentence points and decreasing the remaining total by 25 percent.<sup>138</sup> Absent mitigation,<sup>139</sup> the permissible sentencing range under the Code is generally the lowest permissible sentence scored up to and including the maximum penalty provided under s. 775.082, F.S.

Except as otherwise provided by law, the statutory maximum sentence for an offense committed, which is classified as a:

- Capital felony is:
  - Death, if the proceeding held according to the procedure set forth in s. 921.141, F.S., results in a determination that it is appropriate for the person to be punished by death; or
  - Life imprisonment without the possibility of parole.
- Life felony is a term of imprisonment for life or by imprisonment for a term of years not exceeding life imprisonment.

<sup>130</sup> Each of these acts of each such photograph, motion picture, exhibition, show, image, data, computer depiction, representation, or presentation is a separate offense. Section 827.01(5)(a), F.S.

<sup>131</sup> Section 827.071(1)(b) defines "intentionally view" as deliberately, purposefully, and voluntarily view. Proof of intentionally viewing requires establishing more than a single image, motion picture, exhibition, show, image, data, computer depiction, representation, or other presentation over any period of time. *Id.*

<sup>132</sup> Each child engaging in sexual conduct in each of these mediums is a separate offense. Section 827.01(5)(a), F.S.

<sup>133</sup> Section 827.071(5)(a), F.S.

<sup>134</sup> Section 827.071(5)(b), F.S.

<sup>135</sup> Section 827.071(6), F.S.

<sup>136</sup> Sections 921.002-921.0027, F.S. See chs. 97-194 and 98-204, L.O.F. The Code is effective for offenses committed on or after October 1, 1998.

<sup>137</sup> Offenses are either ranked in the offense severity level ranking chart in s. 921.0022, F.S., or are ranked by default based on a ranking assigned to the felony degree of the offense as provided in s. 921.0023, F.S.

<sup>138</sup> Section 921.0024, F.S. Unless otherwise noted, information on the Code is from this source.

<sup>139</sup> The court may "mitigate" or "depart downward" from the scored lowest permissible sentence if the court finds a mitigating circumstance. Section 921.0026, F.S., provides a list of mitigating circumstances.

- First degree felony is:
  - 30 years; or
  - Imprisonment for a term of years not exceeding life imprisonment when specifically provided by statute.
- Second degree felony is 15 years.
- Third degree felony is 5 years.<sup>140</sup>

The promotion of a sexual performance by a child punishable under s. 827.071(3), F.S., is a level 6 offense. Possession with intent to promote materials which contain sexual conduct by a child punishable under s. 827.071(4), F.S., and materials possessed, controlled or intentionally viewed which contain a child engaging in sexual conduct punishable under s. 827.071(5), F.S., are level 5 offenses.<sup>141</sup>

### ***Effect of the Bill***

#### Cross-Reporting (Sections 6, 13, and 16)

The bill also provides legislative findings in the newly created s. 39.208, F.S., and in an unnumbered section of law that recognizes that animal cruelty is a type of interpersonal violence which frequently co-occurs with child abuse and other forms of family violence, and that early detection of animal cruelty provides:

- An important tool to safeguard children from abuse and neglect;
- Needed support to families; and
- Protection of animals.

The bill provides that the Legislature finds training of protective investigators and animal care and control personnel should include information on the link between the welfare of animals in the family and child safety and protection. The Legislature intends to require reporting and cross-reporting and collaborative training between these personnel.

The bill creates s. 39.208, F.S., establishing new cross-reporting requirements where child protective investigators are required to report known or suspected animal cruelty, and animal control officers are required to report known or suspected child abuse, abandonment, or neglect, of any child who is without parental or caregiver supervision.

Child protective investigators are required to report known or suspected incidents of animal cruelty within 72 hours to his or her supervisor for submission to a local animal control agency. The report must include:

- A description of the animal and animal cruelty;
- The name and address of the animal's owner or keeper, if available; and
- Any other available information that might assist in determining the cause of the animal cruelty and the manner in which it occurred.

A child protective investigator who makes a report is presumed to be acting in good faith and, if he or she cooperates in an investigation, is immune from civil or criminal liability or

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<sup>140</sup> See s. 775.082, F.S.

<sup>141</sup> Section 921.0022(3), F.S.

administrative penalty or sanction. A protective investigator who knowingly and willfully fails to report known or suspected animal cruelty as provided under a new s. 39.208, F.S., commits a second degree misdemeanor.<sup>142</sup>

The bill also requires animal control officers to immediately report any known or suspected child abuse, abandonment, or neglect immediately. An animal control officer who knowingly and willfully fails to report known or suspected child abuse, abandonment, or neglect as provided under s. 39.208, F.S., is subject to the penalties imposed in s. 39.205, F.S.

The bill requires the DCF, in consultation with the Florida Animal Control Association (FACA), to develop or adapt existing training materials to provide a 1-hour training for all child protective investigators and animal control officers on child abuse, abandonment, or neglect or animal cruelty, and the interconnectedness of such abuse or neglect. The DCF must include in the training to child protective investigators information on how to identify harm to and neglect of animals, and the relationship of such activities to child welfare case practice. Training provided to animal control officers must advise them of the mandatory duty to report under ss. 39.208(3) and 39.201, F.S., and the criminal penalties for failing to report as provided for in s. 39.205, F.S.

Animal control officers are required to complete the 1-hour training course, and they must be given the opportunity to complete it during normal work hours.<sup>143</sup>

The bill requires the DCF to adopt rules to implement this section.

The DCF reports that investigators have reported suspected incidents of animal abuse, neglect, or cruelty or abandonment of an animal to the local animal control officer.<sup>144</sup> It also reports that as of October 17, 2019, it did not have a training module developed in conjunction with the FACA which educates on child abuse and animal cruelty.<sup>145</sup>

#### Sexual Activities Involving Animals (Sections 15 and 17)

The bill deletes the definition of “sexual conduct” under s. 828.126(1)(a), F.S. The definition is replaced with a definition of “animal husbandry” which includes the day-to-day care of, selective breeding of, and the raising of livestock that is commonly defined as domesticated animals or animals raised for agricultural purposes and that is located on land used for bona fide agricultural purposes as defined in s. 193.431(3)(b), F.S.

The definition of “sexual contact” under this section is amended to be the definition of “sexual contact with an animal” and means any act committed between a person and an animal for the purpose of sexual gratification, abuse, or financial gain which involves:

- Contact between the sex organ or anus of one and the mouth, sex organ, or anus of the other;
- The fondling of the sex organ or anus of an animal; or

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<sup>142</sup> A second degree misdemeanor is punishable by up to 60 days imprisonment or \$500 fine under s. 775.082, F.S., or s. 775.083, F.S.

<sup>143</sup> Section 828.27(4)(a)2., F.S.

<sup>144</sup> The DCF SB 7000 (2020) Analysis at p. 3.

<sup>145</sup> *Id.*

- The insertion, however slight, of any part of the body of a person or any object into the vaginal or anal opening of an animal, or the insertion of any part of the body of an animal into the vaginal or anal opening of a person.

The bill amends s. 828.126(2)(d), F.S., relating to an offense of sexual activities involving animals to read that a person may not “knowingly organize, promote, conduct, aid, abet, participate in as an observer, or advertise, offer, solicit or accept an offer of an animal for purposes of sexual contact with such animal, or perform any service in the furtherance of an act involving any sexual contact with an animal.” The words underlined have been added and the words “for a commercial or recreational purpose” have been deleted.

The bill also includes another act which gives rise to a criminal violation under s. 828.126, F.S., namely, to knowingly film, distribute, or possess pornographic images of a person and an animal engaged in any of the activities prohibited as described above.

In addition to these penalties, the bill provides that the court must issue an order prohibiting for up to five years from the date of conviction, regardless of whether adjudication is withheld, a person convicted of having sexual contact with an animal from:

- Harboring, owning, possessing, or exercising control over any animal;
- Residing in any household where animals are present; and
- Engaging in an occupation, whether paid or unpaid, or participating in a volunteer position at any establishment where animals are present.

The bill adds an exception to the criminal conduct for artificial insemination of an animal for reproductive purposes.

The bill reclassifies the offense from a first degree misdemeanor to a third degree felony. The bill amends s. 921.0022, F.S., making the offense of sexual activities involving animals a level 6 on the Offense Severity Ranking Chart.

#### *Sexual Performance by a Child (Section 14)*

The bill amends the definition of “sexual bestiality” to a definition of “sexual contact with an animal.” The definition of “sexual contact with an animal” is amended to have the same meaning as in s. 828.126, F.S., when an adult encourages or forces such act to be committed between a child and an animal. The reference to “sexual bestiality” under the definition of “sexual conduct” is amended to “sexual contact with an animal.”

#### **Multidisciplinary Legal Representation (Section 9)**

Multidisciplinary legal representation models (MLRM) have been adopted in states around the country, including The Vermont Parent Representation Center, the Center for Family Representation, the Bronx Defenders, and the Detroit Center for Family Advocacy.<sup>146</sup> While the

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<sup>146</sup> The Children’s Bureau Express, *Collaborating to Build Multidisciplinary, Family-Centered, Strengths-Based Courts*, May 2020, available at

traditional legal practice in the United States is to have a solo attorney represent a client, the MLRM promotes a team of individuals, including social workers and parent advocates.<sup>147</sup> A study by the Bronx Defenders that examined more than 28,000 New York dependency cases between 2007 and 2014 found that full implementation of the MLRM would have saved an estimated \$40 million per year for the foster care system.<sup>148</sup> This same study suggests that representation that utilized the multidisciplinary model were able to safely reunify children with their families 43 percent more often in their first year than solo practitioners, and 25 percent more often in the second year.<sup>149</sup>

The OCCCRC Fourth District of Florida currently has a Social Services Unit (SSU) it employs to enhance the legal representation to indigent parents in dependency cases.<sup>150</sup> The SSU includes a forensic social worker or forensic family advocate who are on the legal team to engage parents and guide them through the reunification process.<sup>151</sup> The OCCCRC reports the SSU assist clients with tasks such as providing information about and interacting with providers, and describes the SSU's inclusion in the legal team as beneficial.<sup>152</sup>

### ***Family First Prevention Services Act***

In 2018, Congress enacted the Family First Prevention Services Act (FFPSA) aimed at providing financial assistance with a focus on prevention services and limiting funds for residential group care.<sup>153</sup> Title IV-E federal funding is now available for legal representation and advocacy for eligible children in foster care and their parents.<sup>154</sup> The FFPSA:

- Includes an option to use funds for up to 12 months for evidence-based services, such as substance abuse treatment;
- Provides that eligible candidates include children who can remain safely in the home with the provision of services; children in foster care who are parents; or parents or caregivers who require services to prevent a child's entry into foster care;
- Requires states to prepare a prevention plan for the child to safely remain at a home with services; and

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<https://cbexpress.acf.hhs.gov/index.cfm?event=website.viewArticles&issueid=216&sectionid=17&articleid=5558> (last visited March 1, 2021) (hereinafter cited as "CBE Building Multidisciplinary Teams").

<sup>147</sup> See *Id.* Children's Bureau Express, *New Study Shows Providing Parents with Multidisciplinary Legal Representation in Child Welfare Cases furthers Everyone's Interests*, July/August 2019, available at

<https://cbexpress.acf.hhs.gov/index.cfm?event=website.viewArticles&issueid=208&sectionid=2&articleid=5378> (last visited March 1, 2021) (hereinafter cited as "CBE New Study").

<sup>148</sup> NYU Law, *Providing Parents with the Right Kind of Legal Representation in Child Welfare Cases Significantly Reduces the Time Children Stay in Foster Care, New Study Finds*, May 7, 2009, available at [Providing Parents with the Right Kind of Legal Representation in Child Welfare Cases Significantly Reduces the Time Children Stay in Foster Care, New Study Finds | NYU School of Law](#) (last visited March 1, 2021) (hereinafter cited as "NYU Article").

<sup>149</sup> *Id.*

<sup>150</sup> The OCCCRC Fourth District of Florida, *Social Services Unit*, available at <http://www.rc-4.com/social-services.shtml> (last visited March 1, 2021).

<sup>151</sup> *Id.*

<sup>152</sup> *Id.*

<sup>153</sup> The DCF, *The Florida Center for Child Welfare FFPSA Updates*, available at <http://centerforchildwelfare.fmhi.usf.edu/FFPSA.shtml> (last visited March 1, 2021).

<sup>154</sup> U.S. Department of Health and Human Services, Administration for Children and Families, *High Quality Memo*, p. 10-11, January 14, 2021, available at [https://www.courts.ca.gov/documents/ffdrp\\_acf2021\\_high\\_quality\\_memo.pdf](https://www.courts.ca.gov/documents/ffdrp_acf2021_high_quality_memo.pdf) (last visited March 1, 2021).

- Requires services to be trauma-informed and pre-approved on the Health and Human Services website.<sup>155</sup>

### ***Effect of the Bill***

The bill creates s. 39.4092, F.S., to provide each OCCCRC with permission to establish a MLRM program and follow program requirements for serving families in dependency cases. The bill provides the following legislative findings:

- MLRM is effective in reducing safety risks to children and providing families with better outcomes;
- Addressing challenges faced by parents, such as mental illness or substance abuse disorders, in a manner that achieves stability often falls within the core functions of the practice of social work;
- Social work professionals have a unique skill set, including client assessment and clinical knowledge, which allows them to interact and engage with clients in meaningful and unique ways, and can quickly connect families facing crises with the appropriate resources;
- Parent-peer specialists who assist parents with successfully navigating the child welfare system are a great benefit to the dependency system;
- Current federal provisions authorize the reimbursement of half the cost of attorneys for parents and children in eligible cases; and
- It is necessary to encourage and facilitate the use of MLRMs to improve outcomes and provide the best opportunities for families who are involved in the dependency system to be successful in creating safe and stable homes for their children.

The bill provides that the DCF must collaborate with the OCCCRC regional counsel to implement a MLRM program and provide funding with available matching federal funds to eligible families involved in the dependency system. The bill provides a MLRM program must, at minimum:

- Include a team that consists of a lawyer, a forensic social worker, and a parent-peer specialist, which is defined as a person who has:
  - Previously had his or her child removed and placed into out-of-home care;
  - Been successfully reunified with the child for more than two years; and
  - Received specialized training;
- Engage in cost-sharing agreements to maximize financial resources and enable access to federal funding;
- Provide specialized training for team members;
- Collect uniform data on each child whose parent is served by the program and ensure that reporting of data is conducted through the child's FSN identification number,<sup>156</sup> if applicable;

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<sup>155</sup> The DCF, *Family First Prevention Services Act*, p. 26, August 28, 2020, available at [http://centerforchildwelfare.fmhi.usf.edu/kb/prevplans/FFPSA-StatewideWebinar8\\_28\\_2020.pdf](http://centerforchildwelfare.fmhi.usf.edu/kb/prevplans/FFPSA-StatewideWebinar8_28_2020.pdf) (last visited March 1, 2021).

<sup>156</sup> The FSN system is Florida's implementation of the Statewide and Tribal Automated Child Welfare Information Systems (SACWIS/TACWIS), which is a federally funded data collection system. All states were required to collect and report particular information to the federal government. States had the option of creating a SACWIS model in order to comply with these federal reporting requirements or they may implement an alternative data collection model. This information was then compiled into the Adoption and Foster Care Analysis and Reporting System and the National Child Abuse and Neglect Data System. Both systems are made publicly available on the Children's Bureau's Child Welfare Outcomes Report Data website.



- Develop consistent operational program policies and procedures throughout the region;
- Obtain agreements with universities relating to approved placements for social work students to ensure the placement of social workers in the program; and
- Execute conflict of interest agreements with each team member.

The bill requires each OCCRC that establishes a MLRM program to provide an annual report to the Office of Program Policy Analysis and Government Accountability (OPPAGA). The report must include data on all of the families served by the MLRM program and all of the following details:

- Reasons for the original involvement of the family in the dependency system.
- Length of time it takes to achieve a permanency goal for the children whose parents are served by the program.
- Frequency of each type of permanency goal achieved by the parents that are served by the program.
- Rate of re-abuse or re-removal of children whose parents are served by the program.
- Any other relevant factors that tend to show the impact that MLRM programs have on outcomes for children in the dependency system, provided each participating OCCRC agrees to use uniform factors and data collection methods.

The bill provides that the first report must be submitted by October 1, 2022, and annually thereafter, to the OPPAGA, which must compile the results of such reports and compare the reported outcomes from the MLRM to known outcomes of children in the dependency system who are not served by the MLRM program. The OPPAGA must submit a report by December 1, 2022, and annually thereafter, to the Governor, the President of the Senate, and the Speaker of the House of Representatives.

The bill authorizes the OCCRC to adopt rules to administer this section.

### **Child Advocacy Centers (Section 8)**

Child advocacy centers must meet specified criteria to become eligible for membership in the Florida Network of Children’s Advocacy Centers, Inc. (FNCAC),<sup>157</sup> a statewide nonprofit membership organization.<sup>158</sup> In addition, child advocacy center staff must be trained and meet background screening requirements in accordance with s. 39.001(1), F.S.,<sup>159</sup> which the FNCAC is responsible for ensuring compliance.<sup>160</sup> State and federal funding of these centers is contingent on them meeting the eligibility criteria and the staff receiving the necessary training and screening. Florida law provides for how such funds will be distributed to the centers.<sup>161</sup> Child advocacy centers submit annual reports to the FNCAC, which then compiles the reports and

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See the National Conference of State Legislatures, *Child Welfare Information Systems*, June 25, 2020, available at <https://www.ncsl.org/research/human-services/child-welfare-information-systems.aspx> (last visited March 1, 2021).

<sup>157</sup> Section 39.3035(1), F.S.

<sup>158</sup> FNCAC, *About Us*, available at <https://www.fncac.org/about-us> (last visited March 1, 2021) (hereinafter cited as “FNCAC About Us”).

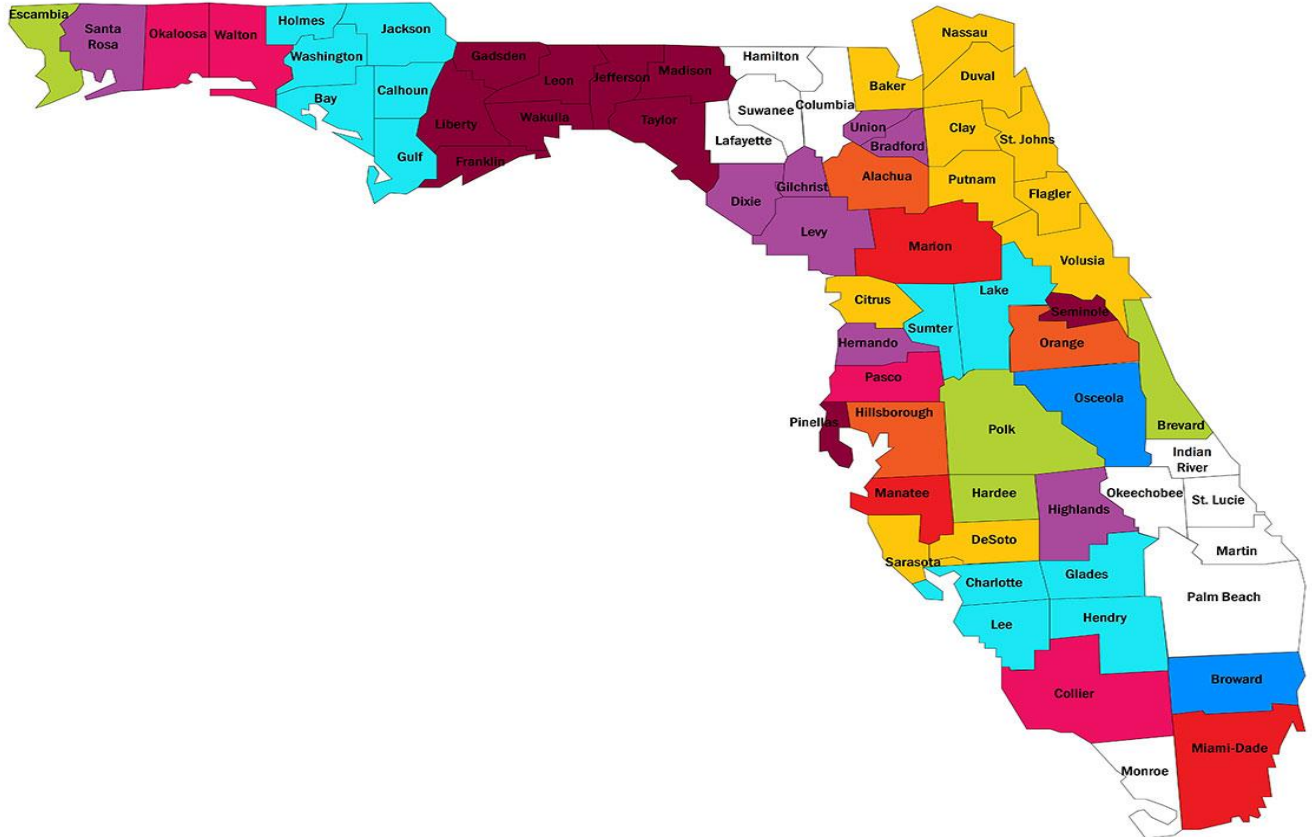
<sup>159</sup> Employees must complete a level 2 background screening pursuant to ch. 435, F.S.

<sup>160</sup> Section 39.3035(2), F.S.

<sup>161</sup> Section 39.3035(3)(a) and (b), F.S.

submits a final report to the President of the Senate and the Speaker of the House of Representatives in August of each year.<sup>162</sup>

The FNCAC is an Accredited State Chapter of the National Children’s Alliance and represents all local children’s advocacy centers in Florida.<sup>163</sup> It reports that there are 27 children’s advocacy centers that serve 85 percent of the children and families in Florida.<sup>164</sup> The map below illustrates the counties serviced by the centers.<sup>165</sup>



Florida Children Advocacy Centers provide the following services, including, but not limited to:

- Forensic interviews;
- Crisis intervention and support services;
- Medical evaluations;
- Multidisciplinary review of cases;
- Evidenced-based prevention and intervention programs; and
- Professional training and community education.<sup>166</sup>

In 2018, the Florida Children Advocacy Centers served over 34,000 children who were victims of child abuse and neglect and provided the following services:

<sup>162</sup> Section 39.3035(3)(c), F.S.

<sup>163</sup> FNCAC, About Us.

<sup>164</sup> *Id.*

<sup>165</sup> FNCAC, *County Coverage Map*, available at <https://www.fncac.org/county-coverage-map> (last visited March 1, 2021).

<sup>166</sup> FNCAC, *What is a CAC*, available at <https://www.fncac.org/what-cac> (last visited March 1, 2021).

- 20,259 received therapy services;
- 17,297 received crisis intervention services;
- 11,120 medical evaluations; and
- 10,675 forensic/specialized interviews.<sup>167</sup>

An analysis conducted by the National Children’s Advocacy Center in Huntsville, Alabama in 2015 suggests that the children’s advocacy center model saves approximately \$1,000 per case in services during the course of a child abuse investigation.<sup>168</sup>

### ***Effect of the Bill***

The bill amends s. 39.3035, F.S., to clarify that the functions of child advocacy centers include facilities that offer multidisciplinary services in a community-based and child-focused environment to victims of child abuse or neglect. The bill also provides that children served by such centers may have experienced various types of abuse or neglect, such as sexual abuse or severe physical pain, and suggests that the centers bring together protective investigators, law enforcement, prosecutors, and medical and mental health professionals to provide a collaborated response to victims and their families.

### **Parenting Partnerships (Sections 10-12)**

Section 409.1415, F.S., provides for parenting partnerships among caregivers and birth or legal parents when children are in out-of-home care to provide quality support and encourage reunification.<sup>169</sup> The DCF and community-based care lead agencies<sup>170</sup> (lead agencies) are required to support parenting partnerships when it is safe and in the child’s best interest by taking specified steps to facilitate, develop plans, and support contact between caregivers and birth or legal parents.<sup>171</sup> Section 409.1415(2)(b), F.S., requires the DCF, lead agencies, caregivers, and birth or legal parents to work cooperatively and comply with specified requirements including, in part:

- They must interact professionally with one another;
- They must develop a case plan together;
- Under s. 409.1415(2)(b)6., F.S., the DCF and lead agencies must provide a caregiver with the services and support they need; and
- Under s. 409.1415(2)(b)15., F.S., a caregiver must ensure that a child in his or her custody between 13 and 17 years old learns independent living skills.<sup>172</sup>

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<sup>167</sup> FNCAC, *Impact of Children’s Advocacy Centers on Child Abuse and Neglect*, available at <https://www.fncac.org/impact-childrens-advocacy-centers-child-abuse-and-neglect> (last visited February 26, 2021).

<sup>168</sup> *Id.*

<sup>169</sup> Section 409.1415(1), F.S.

<sup>170</sup> The DCF operates a community-based care child welfare system that outsources foster care and related services to agencies with an increased local community ownership to enhance accountability, resource development, and system performance. The DCF contracts with community-based care lead agencies to provide direct or indirect child welfare services. The DCF, *Community-Based Care*, available at <https://www.myflfamilies.com/service-programs/community-based-care/overview.shtml> (last visited March 1, 2011).

<sup>171</sup> Section 409.1415(2)(a), F.S.

<sup>172</sup> Section 409.1415(2)(b), F.S.

The Foster Parent information Center (FPIC) helps individuals become foster parents.<sup>173</sup> The FPIC provides information, answers questions, and connects potential foster parents with local resources.<sup>174</sup> Any person who wishes to be a foster parent must meet specified conditions with which the FPIC will assist.<sup>175</sup>

### ***Foster Parent Support***

Section 409.1453, F.S. requires the DCF in collaboration with the Florida Foster and Adoptive Parent Association (FAPA)<sup>176</sup> and the Quality Parenting Initiative (QPI)<sup>177</sup> to design training for caregivers on life skills necessary for youth in out-of-home care.

Section 409.1753, F.S., provides that the DCF must ensure that, within each district, each foster parent is provided with a telephone number to call during normal working hours when immediate assistance is required and the caseworker is unavailable. This number must be staffed by individuals who have the knowledge and authority necessary to assist foster parents.<sup>178</sup>

### ***Effect of the Bill***

The bill amends s. 409.1415(2)(b)6., F.S., to specify that the services and support that must be provided to a caregiver are provided for in a new subsection created in s. 409.1415(3), F.S., which provides:

- The DCF must establish a Foster Parent Information Center to facilitate contact between former and current foster parents, known as foster parent advocates, to current and prospective foster parents to provide information and services, including but not limited to:
  - Assisting with the application and approval process, including timelines for each, preparing to transition a child into the home, and providing prospective foster parents with information with resources available in the community;
  - Accessing available resources and services, including those available from the Florida Foster and Adoptive Parent Association;
  - Providing information specific to a foster parent's individual needs; and

<sup>173</sup> The DCF, *Foster Care, How Do I Become a Foster Parent?*, available at <https://www.myflfamilies.com/service-programs/foster-care/how-do-I.shtml> (last visited March 1, 2021).

<sup>174</sup> *Id.*

<sup>175</sup> *Id.*

<sup>176</sup> The FAPA is a membership organization for foster, adoptive, and other caregivers in Florida. Its aim is, in part, to educate caregivers and parents, and promote a spirit of cooperation of all entities involved in the child welfare system. FAPA provides support and resources to caregivers to help develop healthy families. The DCF, *Foster Care*, available at <https://www.myflfamilies.com/service-programs/foster-care/support-fostering.shtml>. Florida FAPA, *About Florida FAPA*, available at <http://floridafapa.org/about-us/> (all sites last visited March 1, 2021).

<sup>177</sup> The QPI is a national movement for foster care change which focuses on creating a system that gives parents the tools to provide excellent parenting every day. The QPI system requires the support and involvement of birth families, relative caregivers, foster families, young people, and others in the child welfare system. It consists of a network of states, including Florida, as well as counties and private agencies that are committed to ensuring all children in care have excellent parenting and lasting relationships so they can thrive and grow. Florida implemented this program as a pilot in 2008. The QPI, *What is QPI*, January 2021, available at <https://www.qpi4kids.org/what-is-qpi/>; The QPI Florida, *No Place Like Home*, October 22, 2010, available at <http://centerforchildwelfare.fmhi.usf.edu/qpi1/docs/ReviewOfQPI2011.pdf>. The DCF, *Independent Living, The Quality Parenting Initiative, Frequently Asked Questions*, available at <https://www.myflfamilies.com/service-programs/independent-living/myfuturemychoice-fp-faqs.shtml> (all sites last visited March 1, 2021).

<sup>178</sup> Section 409.1753, F.S.

- Providing immediate assistance when necessary.<sup>179</sup>
- The lead agencies must provide a caregiver with the resources and support that are available and discuss whether the caregiver meets any eligibility criteria. If the caregiver is unable to access resources, the lead agencies must assist the caregiver in initiating access to the following resources:
  - Providing referrals to kinship navigation services;
  - Assisting with linkages to community resources and completion of program applications;
  - Scheduling appointments, and
  - Initiating contact with community service providers.<sup>180</sup>

**Section 11** of the bill repeals s. 409.1453, F.S, that requires the DCF’s to provide caregivers with life skills training, and relocates it to s. 409.1415(2)(b)15., F.S., with slightly modified language but substantially the same law.

**Section 12** of the bill repeals Section 409.1753, F.S., that requires the DCF to provide foster parents with a telephone number for immediate assistance, and relocates it to this new subsection in s. 409.1415(3)(b)2., F.S.

#### **Conforming Sections (Sections 19-22)**

The bill amends ss. 39.301, 119.071, 322.09, and 934.03., F.S., conforming references to the changes made by this act.

The bill is effective October 1, 2021.

#### **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 identified.

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<sup>179</sup> Section 409.1415(3)(a), F.S.

<sup>180</sup> Section 409.1415(3)(b)1., F.S.

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

None.

**B. Private Sector Impact:**

The bill provides that an instructional personnel or school administrator who fails to comply with the mandatory reporting requirements of s. 39.201, F.S., under specified instances must have his or her certificate suspended. To the extent that this occurs, he or she may experience a loss of income due to his or her educator certificate being suspended for at least one year.<sup>181</sup>

The bill also adds a representative from a child advocacy center to the CIRRT. The representative should have special training in sexual abuse, or the CIRRT may include another specialist with similar training. This may result in a fiscal impact to the child advocacy centers.

**C. Government Sector Impact:**

The bill substantially expands the use of the critical incident rapid response team (CIRRT) process by requiring the DCF to deploy a CIRRT for every report of allegations of sexual abuse of a child if the child or another child in his or her family was the subject of a verified report of abuse or neglect in the previous 12 months. According to the DCF<sup>182</sup>, the department estimates that it will need 107 FTE positions (84 coordinators, 20 supervisors, and 3 managers) to conduct additional CIRRTs. The DCF projects that the revised criteria will require an estimated 4,033 additional investigations annually. This would also require a streamlining of the current CIRRT process within the department. The DCF anticipates the recurring cost for the additional staff to be \$10,826,283. Federal matching funds may be earned, but it is likely that the majority of the staff costs will need to be paid from the General Revenue Fund.

The bill also authorizes the OCCCRC to implement a multidisciplinary legal representation model program. The program will enable the DCF to draw federal Title IV-E funds on behalf of the OCCCRC and the JAC to conduct the program. Budget authority will be needed for DCF to “pass through” the federal reimbursement funding to these agencies<sup>183</sup>. Additional trust fund budget authority may be requested in the Fiscal Year 2021-22 Legislative Budget, if the program is initiated in the OCCCRC or the JAC.

The bill requires the DCF to collaborate with FACA to develop training for child protective investigators and animal control officers. In a similar bill last year, the DCF

<sup>181</sup> The Department of Education, *Agency Analysis for SB 7000 (2020)*, p. 4, October 29, 2019 (on file with the Senate Committee on Children, Families, and Elder Affairs). SB 7000 (2020) had a provision which resulted in the teaching certificate for an instructional teacher or administrator being suspended or revoked in certain instances.

<sup>182</sup> The DCF, *Agency Analysis for SB 96*, p. 9, March 5, 2021 (on file with the Senate Appropriations Subcommittee on Health and Human Services).

<sup>183</sup> The DCF SB 96 Analysis at p. 4.

stated that the training would result in a one-time cost approximately \$35,000 to develop.<sup>184</sup>

The bill increases the penalty for the offense of sexual activities involving animals to a third degree felony. The Criminal Justice Impact Conference with the Office of Economic and Demographic Research has not yet met to review the bill's impact on the state's prison population. To the extent that this results in additional persons being convicted and sentenced to prison, the bill will likely result in a positive insignificant prison bed impact (i.e. an increase of 10 or fewer beds).

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 39.201, 39.2015, 39.202, 39.205, 39.301, 39.302, 39.3035, 119.071, 322.09, 409.1415, 827.071, 828.126, 828.27, 921.0022, 943.03, 1012.795, and 1012.796.

This bill creates the following sections of the Florida Statutes: 39.101, 39.208, and 39.4092.

This bill repeals the following sections of the Florida Statutes: 409.1453 and 409.1753.

**IX. Additional Information:**

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

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

**CS by Children, Families, and Elder Affairs on March 2, 2021:**

The committee substitute makes a technical change to the effective date.

**B. Amendments:**

None.

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This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

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<sup>184</sup> The DCF SB7000 (2020) Analysis at p. 7–8.