

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.)

Prepared By: The Professional Staff of the Appropriations Committee on Health and Human Services

BILL: SB 214

INTRODUCER: Senator Harrell

SUBJECT: Child Protection Teams

DATE: January 10, 2024

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Hall</u>	<u>Tuszynski</u>	<u>CF</u>	Favorable
2.	<u>Gerbrandt</u>	<u>McKnight</u>	<u>AHS</u>	Pre-meeting
3.	_____	_____	<u>FP</u>	_____

I. Summary:

SB 214 expands the reports that the Florida Central Abuse Hotline must refer to a Child Protection Team for assessment and other available support services to include cases involving:

- A child who was not properly restrained in a motor vehicle and, in the opinion of a physician, the improper restrained exacerbated the child’s injuries or resulted in the child’s death.
- A child who was left unattended or unsupervised in a motor vehicle and such action resulted in an injury to the child or the child’s death.
- Any report from an emergency room physician.

The bill reenacts s. 39.301(14)(c)1.-2., F.S.

The bill has a significant, negative fiscal impact on state government. See Section V. Fiscal Impact Statement.

The bill takes effect July 1, 2024.

II. Present Situation:

Child Welfare System

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

Florida Central Abuse Hotline

The Department of Children and Families (DCF) operates the Florida central abuse hotline (Hotline), which accepts reports 24 hours a day, seven days a week of known or suspected child

abuse, abandonment, or neglect.¹ A child protective investigation begins with a report by any person to the Hotline. Statute mandates any person who knows or suspects a child is abused, abandoned, or neglected by a parent, legal custodian, caregiver, or other person responsible for the child's welfare, or that a child is in need of supervision and care and has no parent, legal custodian, or responsible adult relative immediately known and available to provide supervision and care, shall report such knowledge or suspicion to the Hotline.²

Once the Hotline obtains information from a reporter, if the allegations of the report meet the statutory definition then a child protective investigation by the DCF may be triggered.³ For the report to be accepted for an investigation there must be reasonable cause to believe that the child was harmed by abuse, abandonment, or neglect, or the child is at risk of harm.⁴

Child Protective Investigations

The DCF must conduct a child protective investigation if a Hotline report meets the statutory definition of child abuse, abandonment, or neglect. An investigation must be commenced immediately or within 24 hours after the report is received, depending on the nature of the allegation.⁵ The child protective investigator assesses the safety and perceived needs of the child and family and whether the child should receive in-home or out-of-home services.

Child Protection Teams

A child protection team (CPT) is a medically directed, multidisciplinary team that supplements the child protective investigation efforts of the DCF.⁶ CPTs are independent, community-based programs contracted by the Department of Health, which provide expertise in evaluating alleged child abuse and neglect, assess risk and protective factors, and provide recommendations for interventions to protect children and enhance a caregiver's capacity to provide a safer environment when possible.⁷

CPTs across the state are divided into 15 districts and provide services to all 67 counties by utilizing satellite offices and telemedicine sites.⁸ Each of the 15 districts served by CPTs are supervised by one or multiple CPT medical doctors, depending on the size and subdivision of the particular district.⁹

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

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

¹ Section 39.201(5), F.S.

² Section 39.201(1)(a), F.S.

³ Section 39.201(2)(a), F.S.

⁴ Section 39.201(2), F.S.

⁵ Section 39.201(2)(a), F.S.

⁶ Florida Department of Health, Children's Medical Services, *Child Protection Teams*, https://www.cms-kids.com/families/child_protection_safety/child_protection_teams.html (last visited Nov. 28, 2023).

⁷ *Id.*

⁸ Florida Department of Health, *Children's Protection Team Directory (September 2023)*, <https://www.cms-kids.com/home/contact/cpt.pdf> (last visited Nov. 28, 2023).

⁹ *Id.*

- Any report alleging sexual abuse of a child;
- Any sexually transmitted disease in a prepubescent child;
- Reported malnutrition or failure of a child to thrive;
- Reported medical neglect of a child;
- A sibling or other child remaining in a home where one or more children have been pronounced dead on arrival or have been injured and later died as a result of suspected abuse, abandonment, or neglect; and
- Symptoms of serious emotional problems in a child when emotional or other abuse, abandonment or neglect is suspected.¹⁰

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

- Medical diagnoses and evaluation;
- Child forensic interviews;
- Child and family assessments;
- Multidisciplinary staffings;
- Psychological and psychiatric evaluations;
- Community awareness campaign; and
- Expert court testimony.¹¹

CPT staff also provide training services to child protective investigators, community providers of child welfare services, and emergency room staff and other medical providers in the community.¹²

State Laws Protecting Children in Motor Vehicles

Child Restraint and Safety Belts

- Florida law requires the use of seat belts and child restraint devices, if applicable, by drivers, all front seat passengers, and all children under the age of 18 riding in a motor vehicle.

Currently, the Hotline accepts reports of children who are seriously harmed or die due to failure of a parent to use a child restraint required by law. These reports are accepted under the maltreatment of “inadequate supervision.”¹³

- Under s. 316.613, F.S., the driver of a motor vehicle transporting a child through 5 years of age must properly use a crash-tested, federally approved child restraint device for the child.

¹⁰ Section 39.303(4), F.S.

¹¹ Section 39.303(3), F.S.

¹² Section 39.303(3)(h), F.S.

¹³ The DCF’s operating procedures define “inadequate supervision” as a parent or caregiver leaving a child without adult supervision or arrangement appropriate for the child’s age, maturity, developmental level or mental or physical condition so that the child is unable to care for the child’s own needs or another basic need, or is unable to exercise sufficient judgment in responding to a physical or emotional crisis. *See* DCF CFOP 170-4, pg. A-29 (Sept. 1, 2020).

For children through age 3, such restraint device must be a separate carrier or a vehicle manufacturer's integrated child seat.¹⁴

For children age 4 through age 5, a separate carrier, an integrated child seat, or a child booster seat may be used.¹⁵ However, the requirements to use a child restraint device for children in this age range do not apply when a safety belt is being used and the child is being transported:

- Gratuitously by a driver who is not a member of the child's immediate family;
- In a medical emergency involving the child; or
- Has a medical condition diagnosed by a health care professional that necessitates an exception.¹⁶

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

Under ss. 316.613 and 316.614, F.S., a motor vehicle does not include a:

- School bus;
- Bus used for the transportation of persons for compensation, unless the bus is regularly used to transport children to or from school or in conjunction with school activities;
- Farm tractor or implement of husbandry;
- Truck having a gross vehicle weight rating more than 26,000 pounds; or
- Motorcycle, moped, or bicycle.

The child restraint requirements imposed by s. 316.613, F.S., do not apply to a chauffeur-driven taxi, limousine, sedan, van, bus, motor coach, or other passenger vehicle if the driver and the vehicle were hired and used for transportation of persons for compensation.¹⁷ It is the caregiver's responsibility to comply with the child restraint requirements in these situations.¹⁸

Any person violating ch. 316, F.S., commits a moving violation and is charged with a noncriminal infraction and must be cited for such an infraction¹⁹ and cited to appear before a judge authorized by law to preside over a court or hearing adjudicating traffic infractions.²⁰

¹⁴ Section 316.613(1)(a)1., F.S.

¹⁵ Section 316.613(1)(a)2., F.S.

¹⁶ *Id.*

¹⁷ Section 316.613(6), F.S.

¹⁸ *Id.*

¹⁹ Section 318.13, F.S., defines "infraction" to mean a noncriminal violation that may require community service hours under s. 316.027(4), F.S., but is not punishable by incarceration and for which there is no right to a trial by jury or a right to court-appointed counsel.

²⁰ Section 318.14(1), F.S.; A person who is not required to appear at a mandatory hearing under s. 318.19, F.S., may elect to pay a civil penalty and delinquent fee, if applicable, either by mail or in person, or entry into a payment plan to pay the civil penalty and delinquent fee, if applicable.

If another person dies because of the noncriminal infraction, the person cited is required to appear at a mandatory hearing (instead of having the option to pay a penalty in lieu of a hearing), perform 120 community service hours in a trauma center or hospital that regularly receives victims of vehicle accidents, and may be subjected to other civil or criminal penalties, such as if there's a negligence claim or the person is charged with a crime.²¹

In 2022, there were 397,537 crashes in Florida,²² resulting in 172 fatalities in minors aged 0-17.²³ The Florida Department of Highway Safety and Motor Vehicles reports there were 85 child passenger fatalities due to vehicle crashes. Of these fatalities, almost 50 percent were not wearing any type of restraint.²⁴ Further, in 2022, there were 7,207 citations given for no or improper child restraint device and 59 arrests for leaving a child unattended in a motor vehicle for 15 minutes or longer.²⁵

Leaving Children Unattended or Unsupervised in a Vehicle

Section 316.6135, F.S., prohibits a caregiver from leaving a child younger than six years of age unattended or unsupervised in a motor vehicle longer than 15 minutes, or for any period of time while the motor vehicle is running, the health of the child is in danger, or the child appears to be in distress. Each of these violations has its own penalties:

- Pursuant to s. 316.6135(2), F.S., a caregiver who leaves a child younger than six years of age unattended or unsupervised in a motor vehicle longer than 15 minutes commits a second-degree misdemeanor punishable up to 60 days in jail and a \$500 maximum fine.
- Pursuant to s. 316.6135(5), F.S., a caregiver who leaves a child younger than six years of age unattended or unsupervised in a motor vehicle for any period of time while the vehicle is running, the health of the child is in danger, or the child appears to be in distress is guilty of a noncriminal traffic infraction punishable by a fine not less than \$50 and not more than \$500.

If the caregiver leaves a child younger than six years of age unattended or unsupervised in a vehicle longer than 15 minutes, or for any period of time while the motor vehicle is running, the child's health is in danger, or the child appears to be in distress, and that action causes great bodily harm, permanent disability, or permanent disfigurement to a child, then the person commits a third degree felony punishable as provided in ss. 775.082, 775.083, and 775.084, F.S.

Any law enforcement officer who observes a child left unattended or unsupervised in a motor vehicle may use whatever means reasonably necessary to protect the child and remove the child

²¹ Any person cited for an infraction that results in a crash that causes the death of another will be required to appear at a mandatory hearing.

²² Florida Highway Safety and Motor Vehicles, *Crash Dashboard*, <https://www.flhsmv.gov/traffic-crash-reports/crash-dashboard/> (last visited Dec. 5, 2023).

²³ FL Health Charts, *Deaths from Motor Vehicle Crashes*, <https://www.flhealthcharts.gov/ChartsDashboards/rdPage.aspx?rdReport=Death.Dataviewer> (last visited Dec. 5, 2023).

²⁴ Florida Highway Safety and Motor Vehicles, *Safety Belts and Child Restraints*, <https://www.flhsmv.gov/safety-center/child-safety/safety-belts-child-restraints/> (last visited Dec. 5, 2023).

²⁵ Florida Department of Highway Safety and Motor Vehicles, *Annual Uniform Traffic Citation Report*, <https://services.flhsmv.gov/SpecialtyPlates/UniformTrafficCitationReport> (last visited Dec. 5, 2023).

from the motor vehicle.²⁶ If the law enforcement officer is unable to locate a caregiver, the child must be placed in the custody of the DCF.²⁷

Children experience different types of dangers if left unattended or unsupervised in a motor vehicle, such as heatstroke, setting the car in motion, seatbelt strangulation and leaving the car voluntarily.²⁸ From January 1990 to December 2014, there were 11,759 non-traffic injuries and fatalities in the United States to children 0 to 14 years of age, with a median age of the affected children being 3.7 years.²⁹ The incident types include:

- 3,115 children unattended in hot vehicles resulting in 729 deaths.
- 2,251 backovers³⁰ resulting in 1,232 deaths.
- 1,439 frontovers³¹ resulting in 692 deaths.
- 777 vehicles knocked into motion resulting in 227 deaths.
- 415 underage drivers resulting in 203 deaths.
- 173 power window incidents resulting in 61 deaths.
- 134 falls resulting in 54 deaths.
- 79 fires resulting in 41 deaths.
- 3,377 other incidents resulting in 157 deaths.

Since 1998, 968 children have died nationwide due to vehicular heatstroke.³² The national average of child heatstroke deaths per year since 1998 is 37 and have ranged in age from 5 days old to 14 years.³³ More than half of the deaths (55 percent) are children under two years of age.³⁴ Since 1998, Florida has had the largest number of child heatstroke deaths in vehicles (110), second only to Texas (143)³⁵

Currently, a CPT may accept referrals related to children left unattended or unsupervised in motor vehicles. However, the report would not constitute a mandatory referral unless it met a criterion outlined in s. 39.303(4), F.S.

²⁶ Section 316.6135(5), F.S.

²⁷ Section 316.6135(7), F.S.

²⁸ Kids and Cars, *NEVER Leave a Child Alone Inside a Vehicle... Not Even for a Minute!*, available at: https://www.kidsandcars.org/document_center/download/hot-cars/Kids-Alone-in-Cars-FACT-SHEET.pdf (last visited Dec. 5, 2023).

²⁹ Mark R. Zonrillo, et.al., Unintentional non-traffic injury and fatal events: Threats to children in and around vehicles, *Traffic Injury Prevention*, 19:2, 184-188, available at: <https://docs.house.gov/meetings/IF/IF17/20190523/109548/HHRG-116-IF17-Wstate-FennellJ-20190523-SD004.pdf#page=5&zoom=100,0,66> (last visited Dec. 5, 2023).

³⁰ Backovers are defined as a child being backed over by a vehicle traveling in reverse.

³¹ Frontovers are defined as a slow forward-moving vehicle running over a child.

³² United States Department of Transportation, Traffic Safety Marketing, *Child Safety: Heatstroke Prevention*. See KidsandCars.org, *Children Vehicular Heatstroke Deaths by Year*, https://www.trafficsafetymarketing.gov/get-materials/child-safety/heatstroke-prevention?_ga=2.56158690.870054613.1615229487-1650636428.1615229487 (last visited Dec. 5, 2023).

³³ U.S. Department of Transportation, *Traffic Safety Marketing, Heatstroke Deaths of Children in Vehicles*, <https://www.noheatstroke.org/index.htm> (last visited Dec. 5, 2023).

³⁴ *Id.*

³⁵ National Safety Council, *Hot Car Deaths*, <https://injuryfacts.nsc.org/motor-vehicle/motor-vehicle-safety-issues/hotcars/data-details/> (last visited Dec. 4, 2023).

III. Effect of Proposed Changes:

Section 1 expands the reports the Hotline must refer to CPTs for assessment and other available support services to include cases involving:

- A child who was not properly restrained in a motor vehicle and, in the opinion of a physician, the improper restraint exacerbated the child's injuries or resulted in the child's death;
- A child who was left unattended or unsupervised in a motor vehicle and such action resulted in an injury to the child or the child's death; and
- Any report from an emergency room physician.

Section 2 reenacts s. 39.301(14)(c)1.-2., F.S., which requires the DCF, in consultation with the judiciary to adopt by rule:

- Criteria that are factors requiring that the DCF to take the child into custody, petition the court, or, if the child is not taken into custody, conduct an administrative review. Such factors must include, but are not limited to, noncompliance with a safety plan or the case plan developed by the department, and the family, and prior abuse reports with findings that involve the child, the child's sibling, or the child's caregiver.
- Requirements that if, after administrative review, the DCF determines not to take the child into custody or petition the court, the DCF shall document the reason for its decision in writing and include it in the investigative file. For all cases accepted by law enforcement for criminal investigation, the DCF must include in the file written documentation that the review included input from law enforcement. In addition, for all cases that must be referred to CPTs pursuant to s. 39.303(4) and (5), F.S., the file must include written documentation that the administrative review included the results of the team's evaluation.

Section 3 provides that the bill is effective July 1, 2024.

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.

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

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The bill has a significant, negative fiscal impact on the Department of Health. An exact fiscal impact is unable to be calculated due to not knowing the number of additional children that will be referred to CPT as a result of the additional mandatory criteria. It is estimated to be as high as \$1.3 million recurring.³⁶

Data received from the Department of Highway Safety and Motor Vehicles of crashes between 2019-2022 show that an average of 1,236 minors received an incapacitating injury and an average of 157 child fatalities occurred each year (a combined total of 1,393). However, this data does not detail if those injuries/fatalities were due to the lack of or inadequate restraint.³⁷

An estimated cost per child served by the CPT Program is calculated by dividing the total amount of contracted dollars distributed to the local CPTs by the number of children served.³⁸ Data for the previous three fiscal years is as follows:

- FY 2022/23: \$22,149,588/ 23,463 children = \$944.02 per child.
- FY 2021/22: \$22,428,805/ 23,629 children = \$949.21 per child.
- FY 2020/21: \$22,428,805/ 24,534 children = \$914.20 per child.³⁹

Based on the average minors receiving an incapacitating injury (1,236) and the average number of child fatalities (157), the additional costs to provide CPT services could be as high as \$1,303,583.33 per year:

$$1,236 + 157 = 1,393 \text{ additional children} \times \$935.81 \text{ average cost per child} = \$1,303,583.33$$

VI. Technical Deficiencies:

None.

³⁶ The Department of Health, *Agency Analysis of SB 214*, p. 4-5 (on file with the Senate Committee on Children, Families, and Elder Affairs).

³⁷ *Id.*

³⁸ *Id.*

³⁹ *Id.*

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 39.303 of the Florida Statutes.

This bill reenacts section 39.301 of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

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

None.

B. Amendments:

None.