

FLORIDA HOUSE OF REPRESENTATIVES BILL ANALYSIS

This bill analysis was prepared by nonpartisan committee staff and does not constitute an official statement of legislative intent.

BILL #: [CS/HB 1191](#)

TITLE: Supervision of Children

SPONSOR(S): Miller

COMPANION BILL: [SB 1286](#) (Grall)

LINKED BILLS: None

RELATED BILLS: None

Committee References

[Human Services](#)

16 Y, 0 N, As CS

[Judiciary](#)

[Health & Human Services](#)

SUMMARY

Effect of the Bill:

HB 1191 permits a child’s caregiver to allow the child to engage in certain unsupervised activities, under certain circumstances, if the child is of sufficient maturity and physical condition to do so, without triggering a child welfare investigation. The bill criminalizes a caregiver’s “willful” failure or omission to provide his or her child with the care, supervision, and services necessary to maintain the child’s physical and mental health.

Fiscal or Economic Impact:

None.

[JUMP TO](#)

[SUMMARY](#)

[ANALYSIS](#)

[RELEVANT INFORMATION](#)

[BILL HISTORY](#)

ANALYSIS

EFFECT OF THE BILL:

Florida’s Child Welfare System

Caregiver’s Neglect of a Child

Local news outlets across the country have publicized stories about how child welfare systems and criminal justice systems are increasingly punishing caregivers for leaving their children without adult supervision or an appropriate child care arrangement. Many caregivers balance the particular risks and benefits of leaving their children [unsupervised](#) for short periods of time against the backdrop of abstract state laws.¹

HB 1191 decreases a caregiver’s exposure to criminal and civil liability for allowing his or her child to engage in certain independent, unsupervised activities which include traveling to or from school by bicycle or foot, traveling to nearby locations by bicycle or foot, playing outdoors, or remaining at home or another location for a reasonable period of time. (Sections [1](#) and [2](#)).

The bill extends [criminal liability](#) to a caregiver who leaves a child unsupervised in such circumstances when the lack of supervision constitutes “willful and wanton” conduct that endangers the health or safety of the child. The bill also extends [civil liability](#) to a caregiver who leaves a child unsupervised when the lack of supervision constitutes “reckless” conduct that endangers the health or safety of the child, where the child is subjected to obvious danger which the caregiver knew or should have known about, or during which the child is unable to exercise “reasonable judgment” to avoid serious harm to himself or herself. (Sections [1](#) and [2](#)).

¹ See Elise Solé, “When can kids stay home alone? Find out the law in your state,” *Today*, (Oct. 1, 2024) <https://www.today.com/parents/family/when-can-kids-stay-home-alone-rcna172938> (last visited Mar. 31, 2025).

STORAGE NAME: h1191a.HSS

DATE: 4/2/2025

Current law criminalizes caregiver conduct as child neglect when he or she fails or omits to provide a child with the care, supervision, and services necessary to maintain the child’s physical and mental health. The bill expressly states that the caregiver’s failure or omission must be “willful”. (Section 2).

The bill reenacts [s. 390.01114\(2\)\(b\), F.S.](#), and [s. 984.03\(2\), F.S.](#), to incorporate the bill’s changes to the caregiver’s exposure to civil liability in child neglect cases involving the independent, unsupervised activities of his or her child. (Sections 3 and 4). The bill also reenacts [s. 39.301\(2\)\(b\), F.S.](#), to incorporate the bill’s changes to the caregiver’s exposure to criminal liability in child neglect cases involving the independent, unsupervised activities of his or her child. (Section 5).

The effective date of the bill is July 1, 2025. (Section 6).

RELEVANT INFORMATION

SUBJECT OVERVIEW:

Florida’s Child Welfare System

Administered by the Department of Children and Families (DCF), Florida’s child welfare system seeks to:

- Provide for the care, safety, and protection of children in an environment that fosters healthy social, emotional, intellectual, and physical development;
- Ensure secure and safe custody;
- Promote the health and well-being of all children under the state’s care; and
- Prevent the occurrence of child abuse, neglect, and abandonment.²

Community-Based Care Lead Agencies (CBCs)

DCF outsources some child protection and child welfare services to 16 community based-care lead agencies (CBCs).³ CBCs organize services such as family preservation, mental health services, case management, emergency shelter, foster care, residential group care, postplacement supervision, independent living, and permanency.⁴ CBCs may subcontract case management and direct care services to other provider groups under certain conditions.⁵

Meanwhile, DCF retains direct control over a number of child welfare functions, including operating the central abuse hotline, performing child protective investigations, and providing children’s legal services.⁶ Ultimately, DCF must ensure children receive appropriate, quality care. ⁷ For Fiscal Year 2023-2024, the child welfare system served 55,092 children with family support services, in-home child protective services, or out-of-home care.⁸

Child Protection Investigations

Child Abuse Hotline

The Department of Children and Families (DCF) operates a 24/7 central abuse hotline to receive reports of known or suspected child abuse, abandonment, or neglect and of situations where the child needs supervision and care in

² S. [39.001\(1\)\(a\), F.S.](#)

³ S. [409.986, F.S.](#)

⁴ S. [409.986\(3\), F.S.](#)

⁵ S. [409.988\(1\)\(j\), F.S.](#) Current law requires a CBC to recruit other provider groups when the CBC seeks DCF’s approval for an exemption to exceed the 35% cap on the direct provision of child welfare services. Current law conditions the exemption upon a showing that the CBC’s geographic service area still lacks a qualified provider after the CBC’s good faith recruitment efforts. [s. 409.988\(1\)\(j\), F.S.](#)

⁶ S. [409.996, F.S.](#)

⁷ [Ss. 409.986\(1\)\(b\), F.S., 409.996, F.S., 409.997, F.S.](#)

⁸ Department of Children and Families, “A Comprehensive, Multi-Year Review of the Revenues, Expenditures, and Financial Position of All Community-Based Care Lead Agencies with System of Care Analysis: State Fiscal Years 2022-2023 and 2023-2024”, p. 12 (Dec. 1, 2024)

<https://www.myflfamilies.com/sites/default/files/2024-12/2024%20Multi-Year%20Review%20of%20Financial%20Position%20for%20Lead%20Agencies%20Report.pdf> (last visited Feb. 2, 2025).

the absence of an immediately known and available parent, legal custodian, or responsible adult relative.⁹ Florida is a mandatory reporter state, and a knowledgeable and willful failure to report constitutes a third-degree felony.¹⁰ Notwithstanding mandatory reporting, members of the general public may make reports anonymously.¹¹ For Fiscal Year 2023-2024, DCF received 323,182 total hotline reports and special conditions contacts.^{12,13}

Child Maltreatment Index

DCF’s Child Abuse Hotline operators screen inbound reports through the Child Maltreatment Index (Index) to determine if a report of abuse, abandonment, or neglect meets the criteria for verifying child maltreatment. The Index, intended to guide consistent and accurate decision-making, defines each maltreatment, factors to consider in the assessment of each maltreatment, and also frequently correlated maltreatments. The table below itemizes the maltreatment events that may be assigned to an inbound report of child abuse, neglect, or abandonment.¹⁴

Child Maltreatment Index			
Abandonment	Asphyxiation	Bizarre Punishment	Bone Fracture
Burns	Death	Environmental Hazards	Failure to Protect
Failure to Thrive (includes malnutrition and dehydration)	Household Violence Threatening to Child	Human Trafficking – Commercial Exploitation of Children	Human Trafficking – Labor
Inadequate Supervision	Internal Injuries	Intimate Partner Violence Threatening to Child	Medical Neglect
Mental Injury	Physical Injury	Sexual Abuse: Sexual Battery	Sexual Abuse: Sexual Exploitation
Sexual Abuse: Sexual Molestation	Substance-Exposed Newborn	Substance Misuse	Substance Misuse — Alcohol
Substance Misuse — Illicit Drugs	Substance Misuse — Prescription Drugs	Threatened Harm	<i>(Intentionally Left Blank)</i>

Verification

Once DCF’s Child Abuse Hotline receives a report, the Hotline operator must determine if the report meets the statutory criteria for abuse, abandonment, or neglect, which the table below depicts.¹⁵

Offense	Statutory Criteria (For Dependency Proceedings – Not Criminal Proceedings)
---------	--

⁹ S. 39.101(1)(a), F.S.

¹⁰ S. 39.205(1), F.S. However, the court exempts a victim of domestic violence or persons experiencing other mitigating circumstances from the mandatory reporting requirements. s. 39.205(2), F.S.

¹¹ S. 39.201(1), F.S. Current law requires health care practitioners, school personnel, social workers, professional child care workers, law enforcement officers, judges, animal control officers to identify themselves. However, their identities are kept confidential and exempt from public records disclosure.

¹² Department of Children and Families, “A Comprehensive, Multi-Year Review of the Revenues, Expenditures, and Financial Position of All Community-Based Care Lead Agencies with System of Care Analysis: State Fiscal Years 2022-2023 and 2023-2024”, p. 12 (Dec. 1, 2024) <https://www.myflfamilies.com/sites/default/files/2024-12/2024%20Multi-Year%20Review%20of%20Financial%20Position%20for%20Lead%20Agencies%20Report.pdf> (last visited Mar. 5, 2025).

¹³ Special condition referrals do not constitute willful abuse, neglect, or abandonment. Instead, special conditions referrals arise when a caregiver experiences incarceration, hospitalization, or death and there is no plan of immediate care for the child. Special condition referrals also include caregiver difficulty in caring for the child to a degree that makes impending danger likely. DCF also treats foster care referrals and reports of child-on-child abuse as special condition referrals. R. 65C-30.001(115), F.A.C.

¹⁴ Florida Department of Children and Families, *CFOP 170-4*, available at: <https://prod.myflfamilies.com/sites/default/files/2024-05/CFOP%20170-04%20Child%20Maltreatment%20Index.pdf> (last visited Mar. 30, 2025).

¹⁵ Ss. 39.01(1), F.S. 39.01(2), F.S., 39.01(53), F.S.; s. 39.201(4), F.S. Child abuse includes acts or omissions.

Offense	Statutory Criteria (For Dependency Proceedings – Not Criminal Proceedings)
Child Abuse	Any willful act or threatened act that: <ul style="list-style-type: none"> - Results in physical injury,¹⁶ mental injury,¹⁷ or sexual injury;¹⁸ or - Results in harm¹⁹ that causes or is likely to cause significant impairment of the child’s physical, mental, or emotional health.
Child Abandonment	While being able to do so, the caregiver: <ul style="list-style-type: none"> - Fails to make a significant contribution to the child’s care and maintenance; or - Fails to establish or maintain a substantial and positive relationship with the child. Includes infrequent/irregular visitation or communication with the child. Includes the failure to exercise parental rights and responsibilities.
Child Neglect	The active or passive deprivation of necessary food, clothing, shelter, or medical treatment; or the child’s living environment causes significant impairment, or creates a danger of significant impairment, to the child’s physical, mental, or emotional health. Financial inability does not count (unless the parent rejected an offer of relief).

If the report meets one or more of these statutory criteria, then the Hotline operator accepts the report as a verified maltreatment event, opens a new (or reopens an existing case file)²⁰ for the child, and refers the report for investigation by a DCF Child Protection Investigator (CPI).²¹

For FY 2023-24, DCF verified 185,390 maltreatment reports meeting the statutory requirements to open an investigation.²²

Current law requires DCF to refer allegations of criminal conduct to the municipality or county law enforcement agency of the municipality or county in which the alleged conduct has occurred. This means DCF must inform law enforcement when it knows or suspects a child is a victim of child abuse or neglect to the extent it constitutes a

¹⁶ Physical injury means the death, permanent or temporary disfigurement, or impairment of any bodily part. [s. 39.01\(66\), F.S.](#)

¹⁷ Mental injury means an injury to the intellectual or psychological capacity of a child as evidenced by a discernable and substantial impairment in the ability to function within the normal range of performance and behavior. [s. 39.01\(51\), F.S.](#)

¹⁸ While sexual injury lacks a chapter-wide definition, sexual abuse of a child covers the offenses listed under [s. 39.01\(80\), F.S.](#)

¹⁹ [S. 39.01\(37\), F.S.](#) Harm to a child’s health or welfare can occur when any person:

- Inflicts or allows to be inflicted upon the child physical mental or emotional injury (e.g., willful acts that produce statutorily enumerated injuries; purposefully furnishing poison, alcohol, drugs, or related substances; leaving the child without adult supervision or an appropriate arrangement; inappropriate or excessively harsh disciplinary action).
- Commits or allows to be committed sexual battery or lewd/lascivious acts against the child.
- Allows, encourages, or forces the sexual exploitation of a child.
- Exploits, or allows to be exploited, the child’s labor so that the child unjustifiably suffers or is endangered.
- Abandons the child.
- Neglects the child.
- Exposes the child to a controlled substance or alcohol.
- Uses mechanical devices, unreasonable restraints, or extended periods of isolation to control a child.
- Engages in violent behavior that demonstrates wanton disregard for the presence of a child and could reasonably result in serious injury to the child.
- Negligently fails to protect a child in his or her care from inflicted physical, mental, or sexual injury caused by the acts of another.
- Allowed a child’s sibling to die as a result of abuse, abandonment, or neglect.
- Makes the child unavailable for the purpose of impeding or avoiding a protective investigation unless the court determines that the parent, legal custodian, or caregiver was fleeing from a situation involving domestic violence.

²⁰ DCF maintains single, standard electronic child welfare case file for each child whose report is accepted by the central abuse hotline for investigation. [s. 39.301\(3\), F.S.](#)

²¹ [s. 39.201\(4\), F.S.](#)

²² Department of Children and Families, “A Comprehensive, Multi-Year Review of the Revenues, Expenditures, and Financial Position of All Community-Based Care Lead Agencies with System of Care Analysis: State Fiscal Years 2022-2023 and 2023-2024”, p. 12 (Dec. 1, 2024) <https://www.myflfamilies.com/sites/default/files/2024-12/2024%20Multi-Year%20Review%20of%20Financial%20Position%20for%20Lead%20Agencies%20Report.pdf> (last visited Mar. 5, 2025).

crime, pursuant to [s. 827.03, F.S.](#) If the law enforcement agency accepts the case for a criminal investigation, the law enforcement agency and DCF must coordinate their respective investigative activities, as feasible.²³

Caregiver's Neglect of a Child

[Criminal Liability](#)

A caregiver may be criminally liable for child neglect if he or she fails to provide a child with the care, supervision, and services necessary to maintain the child's physical and mental health. These necessary quality of life items include, but are not limited to, food, nutrition, clothing, shelter, supervision, medicine, and medical services that a prudent person would consider essential for the child's well-being. A caregiver may also be criminally liable if he or she fails to make a reasonable effort to protect a child from abuse, neglect, or exploitation by another person.²⁴

Current law authorizes a finding of criminal neglect of a child based on a pattern of conduct or on a single incident or omission that results in, or could reasonably be expected to result in, serious physical or mental injury, or a substantial risk of death, to a child.²⁵

A caregiver commits a third-degree felony²⁶ if he or she willfully, or by culpable negligence, neglects a child without causing great bodily harm, permanent disability, or permanent disfigurement to the child.²⁷ A caregiver commits a second-degree felony²⁸ if he or she willfully, or by culpable negligence, neglects a child and, in doing so, causes great bodily harm, permanent disability, or permanent disfigurement to the child.²⁹

[Civil Liability](#)

The Supreme Court of Florida declares, as a general principle, that a person does not have a legal duty to proactively act to protect or aid another person unless a special relationship exists which creates such a duty.^{30, 31} A special relationship exists between a caregiver and a child, which means the caregiver is legally bound to act with reasonable care towards the child who needs protection or aid.³²

Harm to the Child

In Chapter 39, F.S., harm to a child's health or welfare generally covers a person's wrongful acts and omissions towards the child that causes physical, mental, or emotional injury. Current law requires DCF and the courts to consider certain factors to determine if a person is liable for harming a child: the child's age, the child's prior

²³ S. [39.301\(2\), F.S.](#)

²⁴ S. [827.03\(1\)\(e\), F.S.](#)

²⁵ S. [827.03\(1\)\(e\), F.S.](#)

²⁶ A third-degree felony conviction, without any enhancements, carries a term of imprisonment not exceeding 5 years and, or, a fine not exceeding \$5,000. [s. 775.082\(3\)\(e\), F.S.](#), [s. 775.083\(1\)\(c\), F.S.](#)

²⁷ S. [827.03\(2\)\(d\), F.S.](#)

²⁸ A second-degree felony conviction, without any enhancements, carries a term of imprisonment not exceeding 15 years and, or, a fine not exceeding \$10,000. [s. 775.082\(3\)\(d\), F.S.](#), [s. 775.083\(1\)\(b\), F.S.](#)

²⁹ S. [827.03\(2\)\(b\), F.S.](#)

³⁰ See *Limones v. Sch. Dist. of Lee Cty.*, 161 So.3d 384, 390 (Fla. 2015).

³¹ See [s. 2.01, F.S.](#) Florida law includes a certain collection of unwritten law. This body of law, codified by legislative act in 1829, reaches back in time to grab most British common law (i.e., judge-made law) and British statutory laws which were in effect in England on July 4, 1776. However, the Florida Legislature added an indispensable caveat, which is the Florida Constitution, the laws of the United States, and the acts of the Florida Legislature control in the event of conflict with British law. This historical context is necessary to understand principles of liability governing the caregiver-child relationship, with respect to their conduct towards one another and towards the outside world. English courts, and subsequently American courts, developed a long line of precedent regarding the caregiver-child relationship, which the American Law Institute distilled into one voluminous canon, the current edition of which is called the Restatement (Second) on Torts. When Florida's judges resolve a caregiver-child relationship legal issue relating to allegations of harm and neglect, they will look to Florida law first, judicial precedent second, and the Restatement as necessary (i.e., if a lawsuit requires a judge to consider untested legal arguments for the first time).

³² See *Limones v. Sch. Dist. of Lee Cty.*, 161 So.3d 384, 390 (Fla. 2015); see Restatement (Second) of Torts, § 314A Special Relations Giving Rise to Duty to Aid or Protect. (1965). (October 2024 Update). (Accessed Westlaw Mar. 30, 2025)

history of injuries, the location of the injury on the child’s body, the multiplicity of the child’s injuries, and the type of trauma the child experienced.³³

Current law names many injurious acts towards a child that constitute harm, one of which is the lack of adult supervision or an appropriate arrangement for the specific child, considering the child’s age, mental condition, and physical condition. The lack of adult supervision or an appropriate child care arrangement creates an environment for harm if at least one of the following three scenarios are also true: ³⁴

1. The child lacks the ability to care for his or own needs;
2. The caregiver knowingly, or should have known that he or she, subjects the child to an obvious danger; or
3. The child lacks the ability to exercise good judgment to avoid serious harm to self or others.

This analysis of harm directly informs DCF and the dependency court on how to evaluate civil allegations of child abuse³⁵ and child neglect.³⁶

Leaving a Child Unsupervised

A caregiver who leaves his or her child [unsupervised](#), either without adult supervision or an appropriate child care arrangement, must recognize both the reasonable risks and unreasonable risks of harm to the child and others.³⁷ The caregiver’s risk assessment is innately a balancing test which weighs the magnitude of the risk of harm to the child against the utility of the caregiver’s reason to leave the child unsupervised, which the table below depicts.³⁸

Negligence Balancing Test: Leaving a Child Unsupervised	
Risk Magnitude Factors	Utility Factors
<ul style="list-style-type: none"> - Social Value of the Child’s Health and Well-Being - Likelihood of Harm to the Child - Extent of Harm Likely to Occur to Child - Likelihood of Harm to Other Persons 	<ul style="list-style-type: none"> - Social Value of the Caregiver’s Reason to Leave the Child Unsupervised - Likelihood that the Caregiver Advances His or Her Purpose - Likelihood that the Caregiver Can Adequately Advance His or Her Purpose through Another and Less Dangerous Means.

If the risk of harm towards the child exceeds the benefit to the caregiver of leaving the child unsupervised, the caregiver has a legal duty to proactively take precautionary measures to avoid harm to the child. The risk level increases if the child is irresponsible and decreases if the child is competent, responsible, and aware of risks.³⁹ This duty to act for the protection of the child and others applies irrespective of the gravity of the danger at issue and the insignificance of the trouble, effort, or expense of providing aid or protection.⁴⁰ However, this duty to act is also only applicable to risks within the caregiver’s control.⁴¹

Duty to Control Conduct of a Child

³³ S. [39.01\(37\)\(a\), F.S.](#)

³⁴ S. [39.01\(37\)\(a\), F.S.](#)

³⁵ S. 39.01(2) F.S.

³⁶ S. [39.01\(37\)\(f\), F.S.](#)

³⁷ See Restatement (Second) of Torts, § 289 Recognizing Existence of Risk and § 302A Risk of Negligence or Recklessness of Others. (1965). (October 2024 Update). (Accessed Westlaw Mar. 30, 2025).

³⁸ See Restatement (Second) of Torts, § 292 Factors Considered in Determining Utility of Actor’s Conduct and § 293 Factors Considering in Determining Magnitude of Risk. (1965). (October 2024 Update). (Accessed Westlaw Mar. 30, 2025).

³⁹ See Restatement (Second) of Torts, § 302A Risk of Negligence or Recklessness of Others, comments d. and e., (1965). (October 2024 Update). (Accessed Westlaw Mar. 30, 2025).

⁴⁰ See Restatement (Second) of Torts, § 314 Duty to Act for Protection of Others, comment c., (1965). (October 2024 update). (Accessed Westlaw Mar. 30, 2025).

⁴¹ See Restatement (Second) of Torts, § 314 Duty to Act for Protection of Others, comment d., (1965). (October 2024 update). (Accessed Westlaw Mar. 30, 2025).

A caregiver has a legal duty to exercise reasonable care to control his or her child to prevent the child from intentionally harming others and creating an unreasonable risk of bodily harm to others.⁴² Although the nature of a caregiver-child relationship in of itself does not make the caregiver liable for a child’s act of wrongdoing, the Supreme Court of Florida has articulated four exceptions to this general rule, which are as follows:

1. The caregiver entrusts the child with an instrumentality which, because of the child’s lack of age, judgment, or experience, may become a source of danger to others;
2. The child acts as an agent of the caregiver to commit the act of wrongdoing;
3. The caregiver consents, directs, or sanctions the tort; and
4. The caregiver fails to exercise control when he or she knows or should know that an injury to another is possible.

The Supreme Court of Florida reads the fourth exception narrowly, to cover the caregiver’s knowledge of the child’s particular habits that have, or likely will cause, an injury.⁴³

BILL HISTORY

COMMITTEE REFERENCE	ACTION	DATE	STAFF DIRECTOR/ POLICY CHIEF	ANALYSIS PREPARED BY
Human Services Subcommittee	16 Y, 0 N, As CS	4/1/2025	Mitz	DesRochers

THE CHANGES ADOPTED BY THE COMMITTEE:

- Amends the “unable to exercise minimally acceptably judgment” standard of harm for leaving children unsupervised to the “reasonable judgment” standard.
- Amends the “grossly negligent” standard of child neglect for leaving children unsupervised to be “reckless conduct” standard.

[Judiciary Committee](#)

[Health & Human Services Committee](#)

THIS BILL ANALYSIS HAS BEEN UPDATED TO INCORPORATE ALL OF THE CHANGES DESCRIBED ABOVE.

⁴² See Restatement (Second) of Torts, § 316 Duty of Parent to Control Conduct of Child, (1965). (October 2024 update). (Accessed Westlaw Mar. 30, 2025).

⁴³ *Perez v. Rodriguez*, 204 So.3d 92, 96 (Fla. 4th DCA 2016); *Snow v. Nelson*, 475 So.2d 225, 226 (Fla. 1985); *Gissen v. Goodwill*, 80 So.2d 701, 703, 705 (Fla. 1955).