

# 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](#)

18 Y, 0 N



[Health & Human Services](#)

22 Y, 0 N

## SUMMARY

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

CS/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 the fear of child welfare oversight or criminal prosecution.

### **Fiscal or Economic Impact:**

The bill may have a negative impact on prison and jail beds due to the increased threshold required to constitute criminal child neglect. The bill may have a positive fiscal impact on state courts due to the increased threshold required to constitute civil child neglect.

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## ANALYSIS

### **EFFECT OF THE BILL:**

#### **Child Neglect**

Many caregivers balance the particular risks and benefits of leaving their children unsupervised for short periods of time against the backdrop of state laws on child neglect.<sup>1</sup>

CS/HB 1191 decreases a caregiver’s exposure to child welfare oversight and criminal prosecution for allowing a child to engage in certain independent, unsupervised activities. These activities include, but are not limited to, traveling to or from school by bicycle or on 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](#)).

Under current [child welfare law](#), a caregiver’s failure to furnish his or her child with adequate food, clothing, shelter, or health care, provided the caregiver has, or has been offered, the financial resources to do, constitutes child neglect. Child neglect also includes any harm that befalls a child left without supervision appropriate for his or her age, mental, or physical condition. This includes, but is not limited to, situations where the child is unable to exercise “good” judgment.” The bill protects the caregiver’s ability to allow his or her child to engage in independent, unsupervised activities without the fear of child welfare oversight. The bill expressly does not protect the caregiver’s failure to provide appropriate supervision when that failure is “reckless,” which includes, but is not limited to, a situation where the child is unable to exercise “reasonable.” (Sections [1](#)).

Under current [criminal law](#), a caregiver’s failure or omission to provide his or her child with child care, supervision, and services necessary to maintain his or her physical and mental health constitutes child neglect; the bill restricts criminal prosecution to the caregiver’s “willful” failure or omission to do so. The bill expressly does

<sup>1</sup> 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:** h1191e.HHS

**DATE:** 4/15/2025

not protect the caregiver’s failure or omission to provide appropriate supervision when that failure is “willful and wanton”; thus, the bill allows criminal prosecutions when the failure to supervise is willful and wanton and results in, or could reasonably be expected to result in, serious injury or a substantial risk of death to the child. (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 child welfare oversight 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](#)).

## **FISCAL OR ECONOMIC IMPACT:**

### STATE GOVERNMENT:

The bill may have a negative impact on prison beds due to the increased threshold required to constitute criminal child neglect. The bill may have a positive fiscal impact on state courts due to the increased threshold required to constitute civil child neglect.

### LOCAL GOVERNMENT:

The bill may have a negative impact on jail beds due to the increased threshold required to constitute criminal child neglect.

## **RELEVANT INFORMATION**

### **SUBJECT OVERVIEW:**

#### **Child Neglect**

#### **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, child neglect, and child abandonment.<sup>2</sup>

Under [child welfare law](#), a presiding judge may find that the following forms of caregiver conduct towards a child constitutes child neglect under [s. 39.01\(53\), F.S.](#)

- The active or passive deprivation of necessary food, clothing, shelter, or medical treatment.
- The child’s living environment causes significant impairment, or creates a danger of significant impairment, to the child’s physical, mental, or emotional health.

The caregiver’s lack of financial resources is a defense to allegations of child neglect in child welfare civil proceedings, unless the caregiver rejected an offer for relief services.<sup>3</sup>

#### **DCF Investigations**

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<sup>2</sup> S. [39.001\(1\)\(a\), F.S.](#)

<sup>3</sup> S. [39.01\(53\), F.S.](#)

DCF launches an investigation of a caregiver, and opens a case file for the caregiver's child, upon the receipt of information that the caregiver neglected the child.<sup>4</sup>

A DCF Child Protection Investigator (CPI) leads the investigation and determines the child's safety. To this end, a CPI first creates a dossier of the child that documents familial history, child welfare history, household criminal records checks,<sup>5</sup> and prior law enforcement contact. The CPI must then conduct face-to-face interviews with the child and other family members, document contemporaneous observations, and solicit opinions from collateral contacts in the child's life.<sup>6</sup>

When the CPI encounters the caregiver for the first time, the CPI must make certain disclosures to him or her. These disclosures are as follows:<sup>7</sup>

- The name of the investigator and his or her DCF credentials.
- The purpose of the investigation.
- The right to legal counsel, the right to remain silent, the right to know how anything that the individual shares with the CPI may be used against them.
- The possible outcomes and services relating to DCF's response.
- The right, if the individual is a parent or legal custodian of the child, to be engaged to the fullest extent possible in determining the nature of the allegation and the nature of any identified problem and the remedy.
- The duty, if the individual is a parent or legal custodian of the child, to report any change in the residence or location of the child to the CPI, and that this duty to report continues until DCF closes the investigation.
- The right, if the individual is a parent or legal custodian of the child, to the audio and video recordings of the CPI's interviews with parents, legal custodians, or children.

A CPI focuses his or her child neglect investigation on the harm caused by the caregiver to the child's health or welfare.<sup>8</sup> Current law names many injurious acts towards a child that constitute harm, one of which is leaving a child unsupervised.<sup>9</sup>

### *Unsupervised Children*

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:<sup>10</sup>

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.

Current law requires DCF and the dependency court to consider certain factors to determine if a person is liable for harming a child: the child's age, the child's mental condition, the child's physical condition, the child's prior 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.<sup>11</sup>

## DCF Interventions

### *In-Home Preventative Services*

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<sup>4</sup> See [s. 39.201\(4\), F.S.](#), [s. 39.301\(3\), F.S.](#)

<sup>5</sup> DCF CPIs hold the designation of "a criminal justice agency" for the purpose of accessing criminal justice information to be used for enforcing Florida law concerning the crimes of child abuse, abandonment, and neglect. CPIs may not use or distribute such information for any purpose other than to support the detection, apprehension, prosecution, pretrial release, posttrial release, or rehabilitation of criminal offenders or persons accused of the crimes of child abuse, abandonment, or neglect. [s. 39.301\(9\)\(a\), F.S.](#)

<sup>6</sup> [s. 39.301\(9\)\(a\), F.S.](#) See [Ss. 39.01\(72\), F.S.](#), [39.01\(73\), F.S.](#)

<sup>7</sup> S. [39.301\(5\), F.S.](#)

<sup>8</sup> See [s. 39.01\(53\), F.S.](#)

<sup>9</sup> S. [39.01\(37\)\(a\), F.S.](#)

<sup>10</sup> S. [39.01\(37\)\(a\), F.S.](#)

<sup>11</sup> S. [39.01\(37\)\(a\), F.S.](#)

If the CPI discovers impending danger<sup>12</sup> or present danger<sup>13</sup> to the child, he or she must implement a specific, sufficient, feasible, and sustainable safety plan.<sup>14</sup> DCF may activate in-home prevention services like parental coaching, family therapy, and cognitive-behavioral interventions to mitigate danger. If these services are successful, DCF prevents a home removal, a disrupted family, and a foster care placement.<sup>15</sup>

### *Temporary Shelter*

If DCF develops probable cause, backed by sufficient facts, that a child cannot remain safely at home, current law authorizes DCF take custody of the child and file a petition for a shelter hearing<sup>16</sup> within 24 hours of the home removal.<sup>17</sup> In the short interim period, DCF may temporarily shelter the child with a relative or nonrelative or in a licensed home or facility.<sup>18</sup> At the shelter hearing, the court appoints a guardian ad litem for the child.<sup>19</sup>

If the presiding judge agrees with the necessity of home removal and that in-home remedial services will not eliminate the necessity of out-of-home care, the judge will continue the child's shelter placement.<sup>20</sup> At the next scheduled hearing (i.e., the disposition hearing), the judge will order a foster care placement for the child and, if necessary, the accompanying array of social and rehabilitative services for the child and parent.<sup>21</sup>

### *Foster Care Placement*

Current law prioritizes out-of-home placements that are the least restrictive, most family-like settings which are available in close proximity to the child's home and meets the child's needs.<sup>22</sup> To prepare for an out-of-home care placement, DCF must first complete a comprehensive assessment<sup>23</sup> to identify the level of care needed by the child and match the child with the most appropriate placement. To this end, DCF must organize a multidisciplinary team (MDT) staffing<sup>24</sup> for the child's benefit and screen the child for trauma. The MDT integrates the trauma screening

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<sup>12</sup> "Impending danger" means a situation in which family behaviors, attitudes, motives, emotions, or situations pose a threat that may not be currently active but that can be anticipated to become active and to have severe effects on a child at any time. [s. 39.01\(38\), F.S.](#)

<sup>13</sup> "Present danger" means a significant and clearly observable family condition that is occurring at the current moment and is already endangering or threatening to endanger the child. Present danger threats are conspicuous and require that an immediate protective action be taken to ensure the child's safety. [s. 39.01\(69\), F.S.](#)

<sup>14</sup> [s. 39.301\(9\)\(a\), F.S.](#)

<sup>15</sup> [S. 39.01\(70\), F.S.](#)

<sup>16</sup> "Shelter hearing" means a hearing in which the court determines whether probable cause exists to keep a child in shelter status pending further investigation of the case. [s. 39.01\(82\), F.S.](#)

<sup>17</sup> Ss. 39.401(1), (3), F.S. To establish probable cause, DCF must find evidence of:

- Past abuse, neglect or abandonment to the child;
- Present suffering of the child from illness or injury as a result of abuse, neglect, or abandonment;
- Imminent suffering of the child from illness or injury as a result of abuse, neglect, or abandonment;
- A material violation of the court's order of protective supervision (Ss. 39.01(74), [39.521\(3\), F.S.](#)) or out-of-home placement; or
- The lack of an immediately known or available legal caregiver or kinship caregiver to provide care and supervision for the child.

<sup>18</sup> Ss. 39.01(81), [39.402\(8\)\(a\), F.S.](#) DCF must determine the shelter placement according to the same standard as foster care placements – balance the child's best interests (see [s. 39.01375, F.S.](#)) against the statutory hierarchy of preferred placements (see [s. 39.4021, F.S.](#)).

<sup>19</sup> [S. 39.402\(8\)\(c\), F.S.](#)

<sup>20</sup> Ss. 39.402(2), (8)(h), F.S.

<sup>21</sup> [S. 39.521\(1\)\(a\), F.S.](#)

<sup>22</sup> Ss. 39.4021, [39.523\(1\), F.S.](#) The statutory hierarchy of preferred placements for a child, in descending order, is with the nonoffending parent, a relative caregiver, an adoptive parent of the child's sibling, fictive kin with a close existing relationship to the child, a nonrelative caregiver who lacks an existing relationship with the child, licensed foster care, and group or congregate care.

<sup>23</sup> A "comprehensive assessment" entails the gathering of information for the evaluation of a child's and caregiver's physical, psychiatric, psychological, or mental health; developmental delays or challenges; and educational, vocational, and social condition and family environment as they relate to the child's and caregiver's need for rehabilitative and treatment services, including substance abuse treatment services, mental health services, developmental services, literacy services, medical services, family services, and other specialized services, as appropriate." [s. 39.01\(18\), F.S.](#)

<sup>24</sup> A multidisciplinary team staffing builds consensus towards an informed placement decision by bringing together the child (if he or she is of sufficient age or capacity to participate), the child's guardian ad litem, the child's family members (as appropriate) or fictive kin, the current caregiver, a DCF representative (other than a DCF Children's Legal Services attorney), a CBC representative, the child's case manager, and a Department of Juvenile Justice representative (if the child is dually involved). At DCF's discretion, the MDT staffing may invite the participation of a Children's Medical Services representative, a school official who has direct contact with the child, a therapist or other behavioral health professional, a mental health professional with expertise in sibling bonding, or other community service providers. [s. 39.4022\(4\), F.S.](#)

results, the assessment results, and the recommended services and interventions into the child's overall behavioral health treatment plan.<sup>25</sup>

Next, DCF prepares a written case plan from the results of a family functioning assessment, which describes, among other elements, the outstanding domestic problems that necessitated DCF's intervention on behalf of the child, the permanency goal, and the terms of substantial compliance towards reunification.<sup>26</sup> Then, at the disposition hearing, the presiding judge reviews DCF's work and authorizes the child's out-of-home placement only if he or she approves of the case plan and family functioning assessment.<sup>27</sup>

### *Termination of Parental Rights*

DCF must file a petition to terminate parental rights with the child welfare court within 60 days if any of the following events occur:<sup>28</sup>

- DCF does not relinquish physical custody of the child back to the caregiver within 12 months after DCF sheltered the child or after the child welfare court adjudicated the child dependent, whichever event occurred first.
- The child remained in foster care for 12 of the most recent 22 months in the aggregate. This calculation does not include any trial home visits or time during which the child was a runaway.
- The State of Florida convicted the caregiver of a homicidal-related charge concerning another caregiver or another child of the caregiver.
- The State of Florida convicted the caregiver with felony battery that resulted in serious bodily injury to the child or another child of the caregiver.
- The child welfare court concludes that DCF is exempt, under the facts of the case, from making reasonable efforts to reunify the child and the caregiver.

Current law establishes numerous grounds for termination of parental rights. This includes, but is not limited to, a situation where the caregiver engaged in egregious conduct, or had the opportunity and capability to prevent egregious conduct, that threatened the life, safety, or physical, mental, or emotional health of the child. A child neglect event that only occurred once, but was of such intensity, magnitude, or severity as to endanger the life of the child, constitutes egregious conduct.<sup>29</sup> Current law applies a "normal standard of conduct" to the egregious conduct analysis, which means this standard conforms to the prevailing societal expectations.<sup>30</sup>

### **Florida's Criminal Justice System**

Under [criminal law](#), the following forms of caregiver conduct towards a child constitutes child neglect under s. 827.03(1)(e), F.S.

- A failure or omission to provide the child with the care, supervision, and services necessary to maintain the child's physical and mental health. This includes, but is not limited to, the failure to provide food, nutrition, clothing, shelter, supervision, medicine, and medical services that a prudent person would consider essential for the child's well-being.
- A failure to make a reasonable effort to protect a child from abuse, neglect, or exploitation by another person.

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.<sup>31</sup>

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<sup>25</sup> S. [39.523\(2\), F.S.](#)

<sup>26</sup> S. [39.6011\(2\), F.S.](#) "Substantial compliance" means that the circumstances which caused the creation of the case plan have been significantly remedied to the extent that the well-being and safety of the child will not be endangered upon the child's remaining with or being returned to the child's parent. [s. 39.01\(87\), F.S.](#)

<sup>27</sup> S. [39.521\(1\)\(a\), F.S.](#)

<sup>28</sup> S. [39.8055\(1\), F.S.](#)

<sup>29</sup> S. [39.806\(1\)\(f\), F.S.](#)

<sup>30</sup> See [39.806\(1\)\(f\), F.S.](#)

<sup>31</sup> S. [827.03\(1\)\(e\), F.S.](#)

## Case Referrals from DCF

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 neglect to the extent it constitutes a 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.<sup>32</sup>

## Prosecution

A state attorney prosecutes child neglect cases in the circuit court within his or her judicial circuit.<sup>33</sup>

A caregiver commits a third-degree felony<sup>34</sup> 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.<sup>35</sup>

A caregiver commits a second-degree felony<sup>36</sup> 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.<sup>37</sup>

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## BILL HISTORY

COMMITTEE REFERENCE	ACTION	DATE	STAFF DIRECTOR/ POLICY CHIEF	ANALYSIS PREPARED BY
<a href="#">Human Services Subcommittee</a>	16 Y, 0 N, As CS	4/1/2025	Mitz	DesRochers
THE CHANGES ADOPTED BY THE COMMITTEE:	<ul style="list-style-type: none"><li>Amends the “unable to exercise minimally acceptably judgment” standard of harm for leaving children unsupervised to the “reasonable judgment” standard.</li><li>Amends the “grossly negligent” standard of child neglect for leaving children unsupervised to be “reckless conduct.” standard.</li></ul>			
<a href="#">Judiciary Committee</a>	18 Y, 0 N		Kramer	Mathews
<a href="#">Health &amp; Human Services Committee</a>	22 Y, 0 N	4/15/2025	Calamas	DesRochers

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**THIS BILL ANALYSIS HAS BEEN UPDATED TO INCORPORATE ALL OF THE CHANGES DESCRIBED ABOVE.**  
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<sup>32</sup> S. [39.301\(2\), F.S.](#)

<sup>33</sup> S. [27.02\(1\), F.S.](#) There are 20 judicial circuits in Florida. [s. 26.021, F.S.](#)

<sup>34</sup> 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.](#)

<sup>35</sup> S. [827.03\(2\)\(d\), F.S.](#)

<sup>36</sup> 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.](#)

<sup>37</sup> S. [827.03\(2\)\(b\), F.S.](#)