

**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 Children, Families, and Elder Affairs

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BILL: SB 1286

INTRODUCER: Senator Grall

SUBJECT: Harming or Neglecting Children

DATE: March 18, 2025

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Rao	Tuszynski	CF	<b>Pre-meeting</b>
2.			ACJ	
3.			RC	

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**I. Summary:**

SB 1286 amends the definition of harm and neglect of a child in ch. 39, F.S., to allow caregivers to let a sufficiently mature child partake in independent, unsupervised activities without considering these actions as harm or neglect of a child.

The bill considers independent, unsupervised activities as harm if the child is subjected to obvious danger of which the caregiver knew or should have known, or the child cannot exercise the reasonable judgment required to avoid serious harm upon responding to physical or emotional crises.

The bill considers independent, unsupervised activities as neglect of a child if such activities constitute reckless conduct that endangers the health or safety of the child.

Additionally, the bill amends the definition of neglect of a child in criminal statute to add a willful standard in a caregiver's failure or omission to provide a child with the necessary services to maintain the child's physical and mental health.

The bill also excludes independent, unsupervised activities that a child engages in from the definition of neglect of a child in ch. 827, F.S. unless the activities constitute a willful and wanton conduct that endangers the health or safety of the child.

The bill is not expected to have a fiscal impact on the government or private sector. *See* Section V. Fiscal Impact Statement.

The bill provides an effective date of July 1, 2025.

## II. Present Situation:

### Florida's Child Welfare System

Chapter 39, F.S., creates Florida's dependency system charged with protecting children who have been abused, abandoned, or neglected.<sup>1</sup> Florida's child welfare system identifies children and families in need of services through reports to the central abuse hotline and child protective investigations. The Department of Children and Families (DCF) and community-based care lead agencies (CBCs) work 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.<sup>2</sup>

Child welfare services are directed toward the prevention of child abuse, abandonment, and neglect.<sup>3</sup> The DCF practice model is based on increasing the safety of the child within his or her home, using in-home services, such as parenting coaching and counseling to maintain and strengthen the child's natural supports in the home environment.<sup>4</sup> These services are coordinated by DCF-contracted CBCs. The DCF is responsible for many child welfare services, including operating the central abuse hotline, performing child protective investigations, and providing children's legal services.<sup>5</sup> Ultimately, the DCF is responsible for program oversight and the overall performance of the child welfare system.<sup>6</sup>

When child welfare necessitates that the DCF remove a child from the home to ensure his or her safety, a series of dependency court proceedings must occur to place that child in an out-of-home placement, adjudicate the child dependent, and if necessary, terminate parental rights and free the child for adoption. Steps in the dependency process usually include:<sup>7</sup>

- A report to the Florida Abuse Hotline.
- A child protective investigation to determine the safety of the child.
- The court finding the child dependent.
- Case planning for the parents to address the problems resulting in the child's dependency.
- Placement in out-of-home care, if necessary.
- Reunification with the child's parent or another option to establish permanency, such as adoption after termination of parental rights.<sup>8</sup>

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<sup>1</sup> Chapter 39, F.S.

<sup>2</sup> Chapter 39, F.S.

<sup>3</sup> Section 39.001, F.S.

<sup>4</sup> See generally The Department of Children and Families, *Florida's Child Welfare Practice Model*, available at: <https://www.myflfamilies.com/services/child-family/child-and-family-well-being/floridas-child-welfare-practice-model> (last visited 2/25/25).

<sup>5</sup> Office of Program Policy Analysis and Government Accountability, *Child Welfare System Performance Mixed in First Year of Statewide Community-Based Care*, Report 06-50, June 2006, available at: <https://oppaga.fl.gov/Products/ReportDetail?rn=06-50> (last visited 2/25/25).

<sup>6</sup> *Id.*

<sup>7</sup> See generally Ch. 39, F.S.

<sup>8</sup> The state has a compelling interest in providing stable and permanent homes for adoptive children in a prompt manner, in preventing the disruption of adoptive placements, and in holding parents accountable for meeting the needs of children. See Section 63.022, F.S.

### ***Central Abuse Hotline***

The DCF is required to operate and maintain a central abuse hotline (hotline)<sup>9</sup> to receive reports of known or suspected instances of child abuse<sup>10</sup>, abandonment<sup>11</sup>, or neglect<sup>12</sup>, or 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 through a single statewide toll-free telephone number or through electronic reporting.<sup>14</sup>

If the hotline determines a report meets the statutory criteria for child abuse, abandonment, or neglect, a DCF child protective investigator (CPI) must complete a child protective investigation.<sup>15</sup>

### ***Child Maltreatment Index***

The Child Maltreatment Index (Index) is utilized by central abuse hotline counselors and CPIs to determine if a report of abuse, abandonment, or neglect meets the criteria for verifying child maltreatment.<sup>16</sup> The Index defines each maltreatment, factors to consider in the assessment of each maltreatment, and also frequently correlated maltreatments.<sup>17</sup>

There are 27 maltreatment types that can be assigned to a report. A report of abuse, abandonment, or neglect must contain at least one of the following maltreatment types; however, a report may include multiple maltreatment types. The maltreatment types are as follows:<sup>18</sup>

- Abandonment.
- Asphyxiation.

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<sup>9</sup> Hereinafter cited as “hotline.” The “Central Abuse Hotline” is 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. Chapter 65C-30.001, F.A.C. and Section 39.101, F.S.

<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(53), 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 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(1), F.S.

<sup>14</sup> Section 39.101(1), F.S.

<sup>15</sup> Prior to July 1, 2023, seven counties allowed the local sheriff’s office to perform child protective investigations. The 2023 legislative session transitioned this responsibility fully back to the Department after changes in Florida’s child welfare system aimed to integrate child protective investigations within existing crisis-oriented systems the DCF maintains. *See generally*: Laws of Fla. 2023-77.

<sup>16</sup> 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 3/12/25).

<sup>17</sup> *Id.*

<sup>18</sup> *Id.*

- Bizarre Punishment.
- Bone Fracture.
- Burns.
- Death.
- Environmental Hazards.
- Failure to Protect.
- Failure to Thrive/Malnutrition/Dehydration.
- Household Violence Threatens Child.
- Human Trafficking — CSEC.
- Human Trafficking — Labor.
- Inadequate Supervision.
- Internal Injuries
- Intimate Partner Violence Threatens 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.

Hotline counselors utilize the definitions of these maltreatment types to determine if the reported information meets the criteria for acceptance of an investigation or special conditions report.<sup>19</sup> Upon determination that the report should be accepted for investigation, the central abuse hotline notifies the DCF staff responsible for protective investigations.<sup>20</sup>

#### Child Protective Investigations

Once a report is accepted by the hotline staff, the CPIs conduct a child protective investigation.<sup>21</sup> These investigations consist of the following:<sup>22</sup>

- A review of all relevant, available information specific to the child, family, and alleged maltreatment; family child welfare history; local, state, and federal criminal records check; and requests for law enforcement assistance provided by the abuse hotline.
  - Based on a review of available information, including the allegations in the current report, a determination shall be made as to whether immediate consultation should occur

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<sup>19</sup> *Id.*

<sup>20</sup> Section 39.301, F.S.

<sup>21</sup> Section 39.301, F.S.

<sup>22</sup> Section 39.301(9)(a), F.S.

- with law enforcement, the Child Protection Team, a domestic violence shelter or advocate, or a substance abuse or mental health professional.<sup>23</sup>
- Face-to-face interviews with the child; other siblings, if any; and the parents, legal custodians, or caregivers.
  - Assessment of the child’s residence, including a determination of the composition of the family and household.
  - Determine whether there is any indication that any child in the family or household has been abused, abandoned, or neglect; the nature and extent of present or prior injuries, abuse, or neglect, and any evidence thereof; and a determination as to the person or persons apparently responsible for the abuse, abandonment, or neglect.
  - Documentation of the present and impending dangers to each child based on the identification of inadequate protective capacity through utilization of a standardized safety assessment instrument (the Index).

CPIs utilize the definitions of maltreatment types to make a determination regarding each of the alleged maltreatments and make one of the following findings<sup>24</sup>:

- **“Verified”** is used when a preponderance of the credible evidence results in a determination the specific harm or threat of harm was the result of abuse, abandonment, or neglect.
- **“Not Substantiated”** is used when there is credible evidence which does not meet the standard of being a preponderance to support that the specific harm was the result of abuse, abandonment, or neglect.
- **“No Indicators”** is used when there is no credible evidence to support that the specific harm was the result of abuse, abandonment, or neglect.

The findings of CPIs are used to determine the next course of action. If the CPI identifies present or impending danger, the CPI must implement a safety plan or take the child into custody. If impending danger is identified and the child is not removed, the CPI must create and implement a safety plan before leaving the home or location where there is present danger.<sup>25</sup> If impending danger is identified, the CPI must create and implement a safety plan as soon as necessary to protect the safety of the child. The safety plan may be modified by the CPI if necessary.<sup>26</sup>

The CPI must either implement a safety plan for the child, which allows the child to remain in the home with in-home services or take the child into custody. If the child cannot safely remain in the home with a safety plan, the DCF must file a shelter petition and remove the child from his or her current home and temporarily place them in out-of-home care.<sup>27</sup>

#### Harm to a Child’s Health or Welfare

The Index utilizes the statutory definition of “harm” in the findings of a report of abuse, abandonment, or neglect as Verified, Not Substantiated, or No Indicators. Generally, the current

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<sup>23</sup> Section 39.301(9)(a), F.S.

<sup>24</sup> *Id.*

<sup>25</sup> Section 39.301, F.S.

<sup>26</sup> Section 39.301, F.S.

<sup>27</sup> Section 39.301, F.S.

definition of harm includes actions such as the following that negatively affect a child's health or welfare<sup>28</sup>:

- Inflicts or allows to be inflicted upon the child physical, mental, or emotional injury.
- Commits, or allows to be committed, sexual battery, as defined in ch. 794, F.S., or lewd or lascivious acts, as defined in ch. 800, F.S., against the child.
- Abandons the child.
- Neglects the child.
- Exposes a child to a controlled substance or alcohol.
- Engages in violent behavior that demonstrates a 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.
- 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.

The definition of harm includes specific instances in which harm to a child has occurred, including willful acts that produce specific injuries.<sup>29</sup> As used in this definition, the term "willful" refers to the intent to perform an action, not to the intent to achieve a result or to cause an injury.<sup>30</sup>

Current law considers leaving a child without adult supervision so that the child is unable to care for the child's own needs or another's basic needs, or is unable to exercise good judgment in responding to any kind of physical or emotional crisis as meeting the criteria of harm. The current statutory language does not specify any independent or unsupervised actions that a child may partake in that do not meet the criteria for harm, or includes any language about the caregiver's knowledge of obvious danger.

#### Neglect of the Child

Neglect of the child is included in the definition of harm. Current law defines the term "neglects the child" to mean that the parent or other person responsible for the child's welfare fails to supply the child with adequate food, clothing, shelter, or health care, although financially able to do so or offered financial or other means to do so.<sup>31</sup> The current statutory language does not provide exceptions to this term that relate to the independent and unsupervised activities of a child.

#### **Abuse of Children - Criminal Law**

Chapter 827, F.S. criminalizes the abuse of children. Current law defines "neglect of a child" for use in Ch. 827, F.S. as:<sup>32</sup>

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<sup>28</sup> Section 39.01(37), F.S.

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

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

<sup>31</sup> *Id.*

<sup>32</sup> Section 827.03(1)(e), F.S.

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

Neglect of a child may be based on repeated 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>33</sup>

Current law does not provide exceptions relating to the independent and unsupervised activities of a child.

### *Offenses Relating to the Abuse of Children*

Florida law provides the following offenses for the abuse of children<sup>34</sup>:

- A person who commits aggravated child abuse commits a felony of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, F.S.
- A person who willfully or by culpable negligence neglects a child and in so doing causes great bodily harm, permanent disability, or permanent disfigurement to the child commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, F.S.
- A person who knowingly or willfully abuses a child without causing great bodily harm, permanent disability, or permanent disfigurement to the child commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, F.S.

### **III. Effect of Proposed Changes:**

**Section 1** of the bill amends the definition of harm in s. 39.01, F.S. to exclude circumstances in which a caregiver allows a child of sufficient maturity and physical condition from engaging in independent unsupervised activities from the definition of harm. Such independent unsupervised activities include, but are not limited to:

- Traveling to or from school or nearby locations by bicycle or on foot;
- Playing outdoors; or
- Remaining at home or any other location for a reasonable period of time, unless allowing such activities constitutes conduct that is so reckless as to endanger the health or safety of the child.

The bill specifies instances in which leaving a child without adult supervision or arrangement appropriate for the child's age, mental, or physical condition is considered harm. The bill establishes that a caregiver has harmed a child's health or welfare when the child is subjected to obvious danger of which the child's caregiver knew or should have known, or the child is unable to exercise reasonable judgment to avoid serious harm to himself or others in responding to any

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<sup>33</sup> *Id.*

<sup>34</sup> Section 827.03(2), F.S.

kind of physical or emotional crisis. The bill requires that a child must be able to exercise reasonable judgment to avoid serious harm to himself or others; meaning, a child cannot be left alone without adult supervision or arrangement appropriate for his or her age if he or she cannot exercise reasonable judgment to avoid harm to himself or others.

The bill specifies that allowing a child to engage in these independent and unsupervised activities does not constitute neglect of a child within the definition of harm, unless allowing such activities constitutes reckless conduct that endangers the health or safety of the child.

**Section 2** of the bill amends s. 827.03, F.S. to include a willful standard to the definition of neglect of a child in criminal statute, ch. 827, F.S. This change provides that a caregiver must *willfully* fail or omit to provide a child with the care, supervision, and services necessary to maintain the child's physical and mental health to be considered as harm. The bill excludes independent and unsupervised activities that a caregiver allows a child to engage in from constituting the neglect of a child, unless allowing such activities constitutes willful and wanton conduct that endangers the health and safety of the child.

The bill considers independent and unsupervised activities to include, but not be limited to:

- Traveling to or from school or nearby locations by bicycle or on foot;
- Playing outdoors; or
- Remaining at home or any other location for a reasonable period of time.

**Section 3** of the bill reenacts s. 390.01114, F.S., to incorporate the substantive changes of the bill.

**Section 4** of the bill reenacts s. 984.03, F.S., to incorporate the substantive changes of the bill.

**Section 5** of the bill provides an effective date of July 1, 2025.

#### **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:

None.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill amends ss. 39.01 and 827.03 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.