

1 A bill to be entitled
2 An act relating to dependent children; providing a
3 short title; amending s. 39.01, F.S.; defining the
4 term "incapacitated parent or legal custodian";
5 amending s. 39.0139, F.S.; revising legislative
6 findings and intent; providing additional situations
7 in which a rebuttable presumption of detriment is
8 created; requiring certain guardians ad litem and
9 attorneys ad litem to have special training in
10 parricide; requiring certain persons to provide to the
11 court and certain agencies and persons access to
12 certain records of a child; requiring visitation or
13 other contact to be supervised by a person who has
14 special training in parricide; requiring the court to
15 refer certain children to specified trauma-informed
16 therapeutic services; amending s. 39.401, F.S.;
17 providing additional reasons a law enforcement officer
18 or authorized agent of the Department of Children and
19 Families can take a child into custody; amending s.
20 39.402, F.S.; requiring a hearing before placing
21 certain children in a shelter; amending ss. 39.302,
22 394.495, 934.255, 960.065, and 984.03, F.S.;
23 conforming cross-references; providing an effective
24 date.
25

Be It Enacted by the Legislature of the State of Florida:

Section 1. This act may be cited as "Ellie's Law."

Section 2. Subsections (39) through (91) of section 39.01, Florida Statutes, are renumbered as subsections (40) through (92), respectively, subsection (10) and present subsection (39) are amended, and a new subsection (39) is added to that section, to read:

39.01 Definitions.—When used in this chapter, unless the context otherwise requires:

(10) "Caregiver" means the parent, legal custodian, permanent guardian, adult household member, or other person responsible for a child's welfare as defined in subsection (58) ~~(57)~~.

(39) "Incapacitated parent or legal custodian" means a person who has been found by a licensed physician or other qualified professional to be unable to care for his or her child because of a physical or mental incapacity or some other incapacity that prevents the parent or legal custodian from making informed decisions regarding the child's welfare, including, but not limited to, providing for the child's health and safety.

(40) ~~(39)~~ "Institutional child abuse or neglect" means situations of known or suspected child abuse or neglect in which the person allegedly perpetrating the child abuse or neglect is

51 an employee of a public or private school, public or private day
52 care center, residential home, institution, facility, or agency
53 or any other person at such institution responsible for the
54 child's welfare as defined in subsection (58) ~~(57)~~.

55 **Section 3. Paragraphs (a) and (b) of subsection (6) of**
56 **section 39.0139, Florida Statutes, are redesignated as**
57 **paragraphs (b) and (c), respectively, paragraph (a) of**
58 **subsection (2), paragraph (a) of subsection (3), and subsections**
59 **(4) and (5) are amended, and a new paragraph (a) is added to**
60 **subsection (6) of that section, to read:**

61 39.0139 Visitation or other contact; restrictions.—

62 (2) LEGISLATIVE FINDINGS AND INTENT.—

63 (a) The Legislature finds that:

64 1. For some children who are abused, abandoned, or
65 neglected by a parent or other caregiver, abuse may include
66 sexual abuse, parricide, or attempted parricide.

67 2. These same children are at risk of suffering from
68 further harm during visitation or other contact.

69 3. Visitation or other contact with the child may be used
70 to influence the child's testimony.

71 (3) PRESUMPTION OF DETRIMENT.—

72 (a) A rebuttable presumption of detriment to a child is
73 created when:

74 1. A court of competent jurisdiction has found probable
75 cause exists that a parent or caregiver has sexually abused a

76 child as defined in s. 39.01;

77 2. A parent or caregiver has been found guilty of,
78 regardless of adjudication, or has entered a plea of guilty or
79 nolo contendere to, charges under the following statutes or
80 substantially similar statutes of other jurisdictions:

81 a. Section 787.04, relating to removing minors from the
82 state or concealing minors contrary to court order;

83 b. Section 794.011, relating to sexual battery;

84 c. Section 798.02, relating to lewd and lascivious
85 behavior;

86 d. Chapter 800, relating to lewdness and indecent
87 exposure;

88 e. Section 826.04, relating to incest; or

89 f. Chapter 827, relating to the abuse of children;

90 3.a. A parent or legal custodian of a child has been
91 arrested for any offense under s. 782.04 and the victim of the
92 offense is the other parent or legal custodian of the child;

93 b. The parent or legal custodian of a child has been
94 arrested for any offense under s. 770.04, s. 777.04, s. 782.04,
95 s. 782.051, or s. 782.07 and the victim of the offense is the
96 parent or legal custodian of the child and such person is now
97 considered an incapacitated parent or legal custodian; or

98 ~~4.3.~~ A court of competent jurisdiction has determined a
99 parent or caregiver to be a sexual predator as defined in s.
100 775.21 or a parent or caregiver has received a substantially

101 similar designation under laws of another jurisdiction.

102 (4) HEARINGS.—A person who meets any of the criteria set
103 forth in paragraph (3)(a) who seeks to begin or resume contact
104 with the child victim has ~~shall have~~ the right to an evidentiary
105 hearing to determine whether contact is appropriate.

106 (a) Before the hearing, the court shall appoint a guardian
107 ad litem for the child if one has not already been appointed.
108 The guardian ad litem and attorney ad litem, if one is
109 appointed, must have special training in the dynamics of child
110 sexual abuse and parricide.

111 (b) At the hearing, the court may receive and rely upon
112 any relevant and material evidence submitted to the extent of
113 its probative value, including written and oral reports or
114 recommendations from the Child Protection Team, the child's
115 therapist, the child's guardian ad litem, or the child's
116 attorney ad litem, if one is appointed, even if these reports,
117 recommendations, and evidence may not be admissible under the
118 rules of evidence.

119 (c) At the hearing, if the person meeting the criteria of
120 paragraph (3)(a) is the child's parent or legal custodian, the
121 court shall request that the parent or legal custodian provide
122 the court, the department or its contracted agencies, the
123 guardian ad litem, and attorney ad litem, if one is appointed,
124 access to the child's medical records, child care records, early
125 education program records, and other educational records. If the

parent or legal custodian is unavailable or unable to consent or withholds consent to such records and the court determines that access to the records is necessary to provide services to the child, the court must issue an order granting access to the necessary records.

(d)~~(e)~~ If the court finds the person proves by clear and convincing evidence that the safety, well-being, and physical, mental, and emotional health of the child is not endangered by such visitation or other contact, the presumption in subsection (3) is rebutted and the court may allow visitation or other contact. The court shall enter a written order setting forth findings of fact and specifying any conditions it finds necessary to protect the child.

(e)~~(d)~~ If the court finds the person did not rebut the presumption established in subsection (3), the court shall enter a written order setting forth findings of fact and prohibiting or restricting visitation or other contact with the child.

(5) CONDITIONS.—Any visitation or other contact ordered under paragraph (4) (e) must ~~(4) (d)~~ shall be:

(a) Supervised by a person who has previously received special training in the dynamics of child sexual abuse and parricide; or

(b) Conducted in a supervised visitation program, provided that the program has an agreement with the court and a current affidavit of compliance on file with the chief judge of the

151 circuit in which the program is located affirming that the
152 program has agreed to comply with the minimum standards
153 contained in the administrative order issued by the Chief
154 Justice of the Supreme Court on November 17, 1999, and provided
155 the program has a written agreement with the court and with the
156 department as described in s. 753.05 containing policies and
157 guidelines specifically related to referrals involving child
158 sexual abuse and parricide.

159 (6) ADDITIONAL CONSIDERATIONS.—

160 (a) Once a rebuttable presumption of detriment has arisen
161 under subsection (3), the court shall refer the child to one of
162 the following trauma-informed therapeutic services:

163 1. A licensed private provider selected by the child's
164 legal custodian or guardian ad litem; or

165 2. A state-funded program administered by the department
166 or a community-based care lead agency through a child victim
167 advocacy program.

168 **Section 4. Paragraph (b) of subsection (1) of section**
169 **39.401, Florida Statutes, is amended to read:**

170 39.401 Taking a child alleged to be dependent into
171 custody; law enforcement officers and authorized agents of the
172 department.—

173 (1) A child may only be taken into custody:

174 (b) By a law enforcement officer, or an authorized agent
175 of the department, if the officer or authorized agent has

probable cause to support a finding:

1. That the child has been abused, neglected, or abandoned, or is suffering from or is in imminent danger of illness or injury as a result of abuse, neglect, or abandonment;

2. That the parent or legal custodian of the child has materially violated a condition of placement imposed by the court;

3. That the parent or legal custodian of the child has been arrested for any offense under s. 782.04 and the victim of the offense is the other parent or legal custodian of the child;

4. The parent or legal custodian of the child has been arrested for any offense under s. 770.04, s. 777.04, s. 782.04, s. 782.051, or s. 782.07 and the victim of the offense is the parent or legal custodian of the child and such person is now considered an incapacitated parent or legal custodian; or

~~5.3-~~ That the child has no parent, legal custodian, or responsible adult relative immediately known and available to provide supervision and care.

Section 5. Subsections (2) through (18) of section 39.402, Florida Statutes, are renumbered as subsections (3) through (19), respectively, present subsection (2), subsection (4), and paragraph (h) of subsection (8) are amended, and a new subsection (2) is added to that section, to read:

39.402 Placement in a shelter.—

(2) Notwithstanding a finding of probable cause, a child

201 may not be placed in a shelter without a hearing if:

202 (a) The parent or legal custodian of the child has been
203 arrested for any offense under s. 782.04 and the victim of the
204 crime is the other parent or legal custodian of the child; or

205 (b) The parent or legal custodian of the child has been
206 arrested for any offense under s. 770.04, s. 777.04, s. 782.04,
207 s. 782.051, or s. 782.07 and the victim of the crime is the
208 parent or legal custodian of the child and such person is now
209 considered an incapacitated parent or legal custodian.

210 (3)(2) A child taken into custody may be placed or
211 continued in a shelter only if one or more of the criteria in
212 subsection (1) or subsection (2) applies and the court has made
213 a specific finding of fact regarding the necessity for removal
214 of the child from the home and has made a determination that the
215 provision of appropriate and available services will not
216 eliminate the need for placement.

217 (5)(4) If the department determines that placement in a
218 shelter is necessary under subsection (1), subsection (2), or
219 subsection (3) ~~subsections (1) and (2)~~, the authorized agent of
220 the department shall authorize placement of the child in a
221 shelter.

222 (8)

223 (h) The order for placement of a child in shelter care
224 must identify the parties present at the hearing and must
225 contain written findings:

226 1. That placement in shelter care is necessary based on
227 the criteria in subsection (1), subsection (2), or subsection
228 (3) ~~subsections (1) and (2)~~.

229 2. That placement in shelter care is in the best interest
230 of the child.

231 3. That continuation of the child in the home is contrary
232 to the welfare of the child because the home situation presents
233 a substantial and immediate danger to the child's physical,
234 mental, or emotional health or safety which cannot be mitigated
235 by the provision of preventive services.

236 4. That based upon the allegations of the petition for
237 placement in shelter care, there is probable cause to believe
238 that the child is dependent or that the court needs additional
239 time, which may not exceed 72 hours, in which to obtain and
240 review documents pertaining to the family in order to
241 appropriately determine the risk to the child.

242 5. That the department has made reasonable efforts to
243 prevent or eliminate the need for removal of the child from the
244 home. A finding of reasonable effort by the department to
245 prevent or eliminate the need for removal may be made and the
246 department is deemed to have made reasonable efforts to prevent
247 or eliminate the need for removal if:

248 a. The first contact of the department with the family
249 occurs during an emergency;

250 b. The appraisal of the home situation by the department

251 indicates that the home situation presents a substantial and
252 immediate danger to the child's physical, mental, or emotional
253 health or safety which cannot be mitigated by the provision of
254 preventive services;

255 c. The child cannot safely remain at home, either because
256 there are no preventive services that can ensure the health and
257 safety of the child or because, even with appropriate and
258 available services being provided, the health and safety of the
259 child cannot be ensured; or

260 d. The parent or legal custodian is alleged to have
261 committed any of the acts listed as grounds for expedited
262 termination of parental rights in s. 39.806(1)(f)-(i).

263 6. That the department has made reasonable efforts to
264 place the child in order of priority as provided in s. 39.4021
265 unless such priority placement is not a placement option or in
266 the best interest of the child based on the criteria and factors
267 set out in s. 39.01375.

268 7. That the department has made reasonable efforts to keep
269 siblings together if they are removed and placed in out-of-home
270 care unless such placement is not in the best interest of each
271 child. It is preferred that siblings be kept together in a
272 foster home, if available. Other reasonable efforts shall
273 include short-term placement in a group home with the ability to
274 accommodate sibling groups if such a placement is available. The
275 department shall report to the court its efforts to place

siblings together unless the court finds that such placement is not in the best interest of a child or his or her sibling.

8. That the court notified the parents, relatives that are providing out-of-home care for the child, or legal custodians of the time, date, and location of the next dependency hearing and of the importance of the active participation of the parents, relatives that are providing out-of-home care for the child, or legal custodians in all proceedings and hearings.

9. That the court notified the parents or legal custodians of their right to counsel to represent them at the shelter hearing and at each subsequent hearing or proceeding, and the right of the parents to appointed counsel, pursuant to the procedures set forth in s. 39.013.

10. That the court notified relatives who are providing out-of-home care for a child as a result of the shelter petition being granted that they have the right to attend all subsequent hearings, to submit reports to the court, and to speak to the court regarding the child, if they so desire.

11. That the department has placement and care responsibility for any child who is not placed in the care of a parent at the conclusion of the shelter hearing.

Section 6. Subsection (1) of section 39.302, Florida Statutes, is amended to read:

39.302 Protective investigations of institutional child abuse, abandonment, or neglect.—

(1) The department shall conduct a child protective investigation of each report of institutional child abuse, abandonment, or neglect. Upon receipt of a report that alleges that an employee or agent of the department, or any other entity or person covered by s. 39.01(40) or (58) ~~s. 39.01(39) or (57)~~, acting in an official capacity, has committed an act of child abuse, abandonment, or neglect, the department shall initiate a child protective investigation within the timeframe established under s. 39.101(2) and notify the appropriate state attorney, law enforcement agency, and licensing agency, which shall immediately conduct a joint investigation, unless independent investigations are more feasible. When conducting investigations or having face-to-face interviews with the child, investigation visits shall be unannounced unless it is determined by the department or its agent that unannounced visits threaten the safety of the child. If a facility is exempt from licensing, the department shall inform the owner or operator of the facility of the report. Each agency conducting a joint investigation is entitled to full access to the information gathered by the department in the course of the investigation. A protective investigation must include an interview with the child's parent or legal guardian. The department shall make a full written report to the state attorney within 3 business days after making the oral report. A criminal investigation shall be coordinated, whenever possible, with the child protective investigation of

the department. Any interested person who has information regarding the offenses described in this subsection may forward a statement to the state attorney as to whether prosecution is warranted and appropriate. Within 15 days after the completion of the investigation, the state attorney shall report the findings to the department and shall include in the report a determination of whether or not prosecution is justified and appropriate in view of the circumstances of the specific case.

Section 7. Paragraph (p) of subsection (4) of section 394.495, Florida Statutes, is amended to read:

394.495 Child and adolescent mental health system of care; programs and services.—

(4) The array of services may include, but is not limited to:

(p) Trauma-informed services for children who have suffered sexual exploitation as defined in s. 39.01(81)(g) ~~s. 39.01(80)(g)~~.

Section 8. Paragraph (c) of subsection (1) of section 934.255, Florida Statutes, is amended to read:

934.255 Subpoenas in investigations of sexual offenses.—

(1) As used in this section, the term:

(c) "Sexual abuse of a child" means a criminal offense based on any conduct described in s. 39.01(81) ~~s. 39.01(80)~~.

Section 9. Subsection (5) of section 960.065, Florida Statutes, is amended to read:

960.065 Eligibility for awards.—

(5) A person is not ineligible for an award pursuant to paragraph (2)(a), paragraph (2)(b), or paragraph (2)(c) if that person is a victim of sexual exploitation of a child as defined in s. 39.01(81)(g) ~~s. 39.01(80)(g)~~.

Section 10. Subsection (24) of section 984.03, Florida Statutes, is amended to read:

984.03 Definitions.—When used in this chapter, the term:

(24) "Neglect" has the same meaning as in s. 39.01 ~~s. 39.01(53)~~.

Section 11. This act shall take effect July 1, 2026.