

1 A bill to be entitled

2 An act relating to child-on-child sexual abuse;  
3 amending s. 39.01, F.S.; replacing the definition of  
4 the term "alleged juvenile sexual offender" with a  
5 definition of the term "juvenile sexual abuse";  
6 deleting an age requirement from the definition of the  
7 term "child who has exhibited inappropriate sexual  
8 behavior"; amending s. 39.201, F.S.; requiring reports  
9 involving juvenile sexual abuse or a child who has  
10 exhibited inappropriate sexual behavior to be made to  
11 the Department of Children and Families' central abuse  
12 hotline; providing duties concerning such reports;  
13 deleting provisions concerning reports about children  
14 over a certain age; amending s. 39.307, F.S.;  
15 requiring the department to ensure that information  
16 describing a child's history of juvenile sexual abuse  
17 is included in the child's electronic record;  
18 requiring placement decisions to include certain  
19 considerations; conforming provisions to changes made  
20 by the act; amending ss. 39.0132, 39.302, and 985.04,  
21 F.S.; conforming provisions to changes made by the  
22 act; providing an effective date.

23  
24 Be It Enacted by the Legislature of the State of Florida:

25  
26 Section 1. Subsections (8) through (34) of section 39.01,

27 Florida Statutes, are renumbered as subsections (7) through  
 28 (33), respectively, present subsection (7) is renumbered as  
 29 subsection (34) and amended, and present subsection (14) of that  
 30 section is amended, to read:

31 39.01 Definitions.—When used in this chapter, unless the  
 32 context otherwise requires:

33 ~~(34) (7) "Alleged juvenile sexual offender" means:~~

34 ~~(a) A child 12 years of age or younger who is alleged to~~  
 35 ~~have committed a violation of chapter 794, chapter 796, chapter~~  
 36 ~~800, s. 827.071, or s. 847.0133; or~~

37 ~~(b) A child who is alleged to have committed any violation~~  
 38 ~~of law or delinquent act involving juvenile sexual abuse.~~

39 "Juvenile sexual abuse" means any sexual behavior by a child  
 40 that ~~which~~ occurs without consent, without equality, or as a  
 41 result of coercion. For purposes of this subsection ~~paragraph~~,  
 42 the term ~~following definitions~~ apply:

43 (a)1. "Coercion" means the exploitation of authority or  
 44 the use of bribes, threats of force, or intimidation to gain  
 45 cooperation or compliance.

46 (b)2. "Equality" means two participants operating with the  
 47 same level of power in a relationship, neither being controlled  
 48 nor coerced by the other.

49 (c)3. "Consent" means an agreement, including all of the  
 50 following:

51 1.a. Understanding what is proposed based on age,  
 52 maturity, developmental level, functioning, and experience.

53        ~~2.b.~~ Knowledge of societal standards for what is being  
54 proposed.

55        ~~3.e.~~ Awareness of potential consequences and alternatives.

56        ~~4.d.~~ Assumption that agreement or disagreement will be  
57 accepted equally.

58        ~~5.e.~~ Voluntary decision.

59        ~~6.f.~~ Mental competence.

60  
61 Juvenile sexual abuse ~~offender behavior~~ ranges from noncontact  
62 sexual behavior such as making obscene phone calls,  
63 exhibitionism, voyeurism, and the showing or taking of lewd  
64 photographs to varying degrees of direct sexual contact, such as  
65 frottage, fondling, digital penetration, rape, fellatio, sodomy,  
66 and various other sexually aggressive acts.

67        ~~(13)-(14)~~ "Child who has exhibited inappropriate sexual  
68 behavior" means a child ~~who is 12 years of age or younger and~~  
69 who has been found by the department or the court to have  
70 committed an inappropriate sexual act.

71        Section 2. Paragraph (c) of subsection (1) and paragraph  
72 (c) of subsection (2) of section 39.201, Florida Statutes, are  
73 amended to read:

74        39.201 Mandatory reports of child abuse, abandonment, or  
75 neglect; mandatory reports of death; central abuse hotline.—

76        (1)

77        (c) Any person who knows, or has reasonable cause to  
78 suspect, that a child is the victim of childhood sexual abuse or

79 the victim of juvenile sexual abuse ~~a known or suspected~~  
 80 ~~juvenile sexual offender, as defined in this chapter,~~ shall  
 81 report such knowledge or suspicion to the department in the  
 82 manner prescribed in subsection (2).

83 (2)

84 (c) Reports involving juvenile sexual abuse ~~a known or~~  
 85 ~~suspected juvenile sexual offender~~ or a child who has exhibited  
 86 inappropriate sexual behavior shall be made to the department's  
 87 central abuse hotline ~~and received by the department.~~

88 1. The department shall determine the age of the alleged  
 89 offender, if known.

90 2. ~~If the alleged offender is 12 years of age or younger,~~  
 91 The central abuse hotline shall immediately electronically  
 92 transfer the report or call to the county sheriff's office. The  
 93 department shall conduct an assessment and assist the family in  
 94 receiving appropriate services pursuant to s. 39.307~~7~~ and send a  
 95 written report of the allegation to the appropriate county  
 96 sheriff's office within 48 hours after the initial report is  
 97 made to the central abuse hotline.

98 3. The department shall ensure that the fact and results  
 99 of any investigation of juvenile sexual abuse involving a child  
 100 in the custody or under the protective supervision of the  
 101 department are made known to the court at the next hearing or  
 102 included in the next report to the court concerning the child ~~if~~  
 103 ~~the alleged offender is 13 years of age or older, the central~~  
 104 ~~abuse hotline shall immediately electronically transfer the~~

105 ~~report or call to the appropriate county sheriff's office and~~  
 106 ~~send a written report to the appropriate county sheriff's office~~  
 107 ~~within 48 hours after the initial report to the central abuse~~  
 108 ~~hotline.~~

109 Section 3. Section 39.307, Florida Statutes, is amended to  
 110 read:

111 39.307 Reports of child-on-child sexual abuse.—

112 (1) Upon receiving a report alleging juvenile sexual abuse  
 113 or inappropriate sexual behavior as defined in s. 39.01(7), the  
 114 department shall assist the family in receiving appropriate  
 115 services to address the allegations of the report.

116 (a) The department shall ensure that information  
 117 describing a child's history of juvenile sexual abuse is  
 118 included in the child's electronic record. This record must also  
 119 include information describing the services that the child has  
 120 received as a result of his or her involvement with juvenile  
 121 sexual abuse.

122 (b) Placement decisions for a child who has been involved  
 123 with juvenile sexual abuse must include consideration of the  
 124 needs of the child and any other children in the home being  
 125 considered for placement.

126 (2) The department, contracted sheriff's office providing  
 127 protective investigation services, or contracted case management  
 128 personnel responsible for providing services, at a minimum,  
 129 shall adhere to the following procedures:

130 (a) The purpose of the response to a report alleging

131 juvenile sexual abuse or inappropriate sexual behavior shall be  
132 explained to the caregiver.

133 1. The purpose of the response shall be explained in a  
134 manner consistent with legislative purpose and intent provided  
135 in this chapter.

136 2. The name and office telephone number of the person  
137 responding shall be provided to the caregiver of the alleged  
138 abuser ~~juvenile sexual offender~~ or child who has exhibited  
139 inappropriate sexual behavior and the victim's caregiver.

140 3. The possible consequences of the department's response,  
141 including outcomes and services, shall be explained to the  
142 caregiver of the alleged abuser ~~juvenile sexual offender~~ or  
143 child who has exhibited inappropriate sexual behavior and the  
144 victim's caregiver.

145 (b) The caregiver of the alleged abuser ~~juvenile sexual~~  
146 ~~offender~~ or child who has exhibited inappropriate sexual  
147 behavior and the victim's caregiver shall be involved to the  
148 fullest extent possible in determining the nature of the sexual  
149 behavior concerns and the nature of any problem or risk to other  
150 children.

151 (c) The assessment of risk and the perceived treatment  
152 needs of the alleged abuser ~~juvenile sexual offender~~ or child  
153 who has exhibited inappropriate sexual behavior, the victim, and  
154 respective caregivers shall be conducted by the district staff,  
155 the child protection team of the Department of Health, and other  
156 providers under contract with the department to provide services

157 | to the caregiver of the alleged abuser ~~offender~~, the victim, and  
 158 | the victim's caregiver.

159 |         (d) The assessment shall be conducted in a manner that is  
 160 | sensitive to the social, economic, and cultural environment of  
 161 | the family.

162 |         (e) If necessary, the child protection team of the  
 163 | Department of Health shall conduct a physical examination of the  
 164 | victim, which is sufficient to meet forensic requirements.

165 |         (f) Based on the information obtained from the alleged  
 166 | abuser ~~juvenile sexual offender~~ or child who has exhibited  
 167 | inappropriate sexual behavior, his or her caregiver, the victim,  
 168 | and the victim's caregiver, an assessment of service and  
 169 | treatment needs must be completed and, if needed, a case plan  
 170 | developed within 30 days.

171 |         (g) The department shall classify the outcome of the  
 172 | report as follows:

173 |             1. Report closed. Services were not offered because the  
 174 | department determined that there was no basis for intervention.

175 |             2. Services accepted by alleged abuser ~~juvenile sexual~~  
 176 | ~~offender~~. Services were offered to the alleged abuser ~~juvenile~~  
 177 | ~~sexual offender~~ or child who has exhibited inappropriate sexual  
 178 | behavior and accepted by the caregiver.

179 |             3. Report closed. Services were offered to the alleged  
 180 | abuser ~~juvenile sexual offender~~ or child who has exhibited  
 181 | inappropriate sexual behavior, but ~~were~~ rejected by the  
 182 | caregiver.

183 4. Notification to law enforcement. The risk to the  
184 victim's safety and well-being cannot be reduced by the  
185 provision of services or the caregiver rejected services, and  
186 notification of the alleged delinquent act or violation of law  
187 to the appropriate law enforcement agency was initiated.

188 5. Services accepted by victim. Services were offered to  
189 the victim and accepted by the caregiver.

190 6. Report closed. Services were offered to the victim but  
191 were rejected by the caregiver.

192 (3) If services have been accepted by the alleged abuser  
193 ~~juvenile sexual offender~~ or child who has exhibited  
194 inappropriate sexual behavior, the victim, and respective  
195 caregivers, the department shall designate a case manager and  
196 develop a specific case plan.

197 (a) Upon receipt of the plan, the caregiver shall indicate  
198 its acceptance of the plan in writing.

199 (b) The case manager shall periodically review the  
200 progress toward achieving the objectives of the plan in order  
201 to:

202 1. Make adjustments to the plan or take additional action  
203 as provided in this part; or

204 2. Terminate the case if indicated by successful or  
205 substantial achievement of the objectives of the plan.

206 (4) Services provided to the alleged abuser ~~juvenile~~  
207 ~~sexual offender~~ or child who has exhibited inappropriate sexual  
208 behavior, the victim, and respective caregivers or family must



209 be voluntary and of necessary duration.

210 (5) If the family or caregiver of the alleged abuser  
 211 ~~juvenile sexual offender~~ or child who has exhibited  
 212 inappropriate sexual behavior fails to adequately participate or  
 213 allow for the adequate participation of the child in the  
 214 services or treatment delineated in the case plan, the case  
 215 manager may recommend that the department:

216 (a) Close the case;

217 (b) Refer the case to mediation or arbitration, if  
 218 available; or

219 (c) Notify the appropriate law enforcement agency of  
 220 failure to comply.

221 (6) At any time, as a result of additional information,  
 222 findings of facts, or changing conditions, the department may  
 223 pursue a child protective investigation as provided in this  
 224 chapter.

225 (7) The department may ~~is authorized to~~ develop rules and  
 226 other policy directives ~~necessary to~~ administer ~~implement the~~  
 227 ~~provisions of~~ this section.

228 Section 4. Paragraph (b) of subsection (4) of section  
 229 39.0132, Florida Statutes, is amended to read:

230 39.0132 Oaths, records, and confidential information.—

231 (4)

232 (b) The department shall disclose to the school  
 233 superintendent the presence of any child in the care and custody  
 234 or under the jurisdiction or supervision of the department who

235 has a known history of criminal sexual behavior with other  
 236 juveniles; is ~~an~~ alleged to have committed juvenile sexual abuse  
 237 ~~sex offender, as defined in s. 39.01~~; or has pled guilty or nolo  
 238 contendere to, or has been found to have committed, a violation  
 239 of chapter 794, chapter 796, chapter 800, s. 827.071, or s.  
 240 847.0133, regardless of adjudication. Any employee of a district  
 241 school board who knowingly and willfully discloses such  
 242 information to an unauthorized person commits a misdemeanor of  
 243 the second degree, punishable as provided in s. 775.082 or s.  
 244 775.083.

245 Section 5. Subsection (1) of section 39.302, Florida  
 246 Statutes, is amended to read:

247 39.302 Protective investigations of institutional child  
 248 abuse, abandonment, or neglect.—

249 (1) The department shall conduct a child protective  
 250 investigation of each report of institutional child abuse,  
 251 abandonment, or neglect. Upon receipt of a report that alleges  
 252 that an employee or agent of the department, or any other entity  
 253 or person covered by s. 39.01(32) ~~39.01(33)~~ or (47), acting in  
 254 an official capacity, has committed an act of child abuse,  
 255 abandonment, or neglect, the department shall initiate a child  
 256 protective investigation within the timeframe established under  
 257 s. 39.201(5) and notify the appropriate state attorney, law  
 258 enforcement agency, and licensing agency, which shall  
 259 immediately conduct a joint investigation, unless independent  
 260 investigations are more feasible. When conducting investigations

261 or having face-to-face interviews with the child, investigation  
262 visits shall be unannounced unless it is determined by the  
263 department or its agent that unannounced visits threaten the  
264 safety of the child. If a facility is exempt from licensing, the  
265 department shall inform the owner or operator of the facility of  
266 the report. Each agency conducting a joint investigation is  
267 entitled to full access to the information gathered by the  
268 department in the course of the investigation. A protective  
269 investigation must include an interview with the child's parent  
270 or legal guardian. The department shall make a full written  
271 report to the state attorney within 3 working days after making  
272 the oral report. A criminal investigation shall be coordinated,  
273 whenever possible, with the child protective investigation of  
274 the department. Any interested person who has information  
275 regarding the offenses described in this subsection may forward  
276 a statement to the state attorney as to whether prosecution is  
277 warranted and appropriate. Within 15 days after the completion  
278 of the investigation, the state attorney shall report the  
279 findings to the department and shall include in the report a  
280 determination of whether ~~or not~~ prosecution is justified and  
281 appropriate in view of the circumstances of the specific case.

282 Section 6. Paragraph (d) of subsection (4) of section  
283 985.04, Florida Statutes, is amended to read:

284 985.04 Oaths; records; confidential information.—

285 (4)

286 (d) The department shall disclose to the school

287 superintendent the presence of any child in the care and custody  
288 or under the jurisdiction or supervision of the department who  
289 has a known history of criminal sexual behavior with other  
290 juveniles; is ~~an~~ alleged to have committed juvenile sexual abuse  
291 ~~offender~~, as defined in s. 39.01; or has pled guilty or nolo  
292 contendere to, or has been found to have committed, a violation  
293 of chapter 794, chapter 796, chapter 800, s. 827.071, or s.  
294 847.0133, regardless of adjudication. Any employee of a district  
295 school board who knowingly and willfully discloses such  
296 information to an unauthorized person commits a misdemeanor of  
297 the second degree, punishable as provided in s. 775.082 or s.  
298 775.083.

299 Section 7. This act shall take effect July 1, 2014.