

1 A bill to be entitled

2 An act relating to child-on-child sexual abuse;
3 reordering and amending s. 39.01, F.S.; deleting the
4 definition of the term "alleged juvenile sexual
5 offender"; deleting an age requirement for the
6 definition of the term "child who has exhibited
7 inappropriate sexual behavior"; amending s. 39.201,
8 F.S.; requiring alleged incidents of juvenile sexual
9 abuse involving children in the custody or protective
10 supervision of the Department of Children and Families
11 to be reported to the central abuse hotline; providing
12 duties concerning such reports; deleting provisions
13 concerning reports about children over a certain age;
14 amending s. 39.307, F.S.; conforming provisions to
15 changes made by the act; providing duties concerning
16 reports of child-on-child sexual abuse; requiring
17 tracking and measuring of specified data; amending ss.
18 39.0132, 39.302 and 985.04, F.S.; conforming
19 provisions to changes made by the act; providing an
20 effective date.

21
22 Be It Enacted by the Legislature of the State of Florida:

23
24 Section 1. Subsections (8) through (34) of section 39.01,
25 Florida Statutes, are renumbered as subsections (7) through
26 (33), respectively, present subsection (7) is reordered and

27 renumbered as subsection (34) and amended, and present
 28 subsection (14) of that section is amended, to read:

29 39.01 Definitions.—When used in this chapter, unless the
 30 context otherwise requires:

31 ~~(34)(7)~~ "Alleged juvenile sexual offender" means:

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

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

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

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

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

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

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

51 2.b. Knowledge of societal standards for what is being
 52 proposed.

53 3.e. Awareness of potential consequences and alternatives.

54 4.d. Assumption that agreement or disagreement will be
55 accepted equally.

56 5.e. Voluntary decision.

57 6.f. Mental competence.

58

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

65 ~~(13)-(14)~~ "Child who has exhibited inappropriate sexual
66 behavior" means a child ~~who is 12 years of age or younger and~~
67 who has been found by the department or the court to have
68 committed an inappropriate sexual act.

69 Section 2. Paragraph (c) of subsection (2) of section
70 39.201, Florida Statutes, is amended to read:

71 39.201 Mandatory reports of child abuse, abandonment, or
72 neglect; mandatory reports of death; central abuse hotline.—

73 (2)

74 (c) Reports involving juvenile sexual abuse ~~a known or~~
75 ~~suspected juvenile sexual offender~~ or a child who has exhibited
76 inappropriate sexual behavior shall be made and received by the
77 department. Any alleged incident of juvenile sexual abuse
78 involving a child who is in the custody or protective

79 supervision of the department must be reported to the central
 80 abuse hotline.

81 1. The department shall determine whether a child included
 82 in the report is known to the department ~~the age of the alleged~~
 83 ~~offender, if known.~~

84 2. If a child included in the report is known to the
 85 department, the central abuse hotline shall inform the
 86 Children's Legal Services office of the allegation so that the
 87 office may promptly advise the court and parties to any
 88 proceeding under this chapter involving the child. The central
 89 abuse hotline shall immediately electronically transfer the
 90 report or call to the county sheriff's office. The department
 91 shall conduct an assessment and assist the child in receiving
 92 appropriate services pursuant to s. 39.307 and send a written
 93 report of the allegation to the appropriate county sheriff's
 94 office within 48 hours after the initial report is made to the
 95 central abuse hotline.

96 ~~3.2.~~ If a child included in the report is not known to the
 97 department ~~the alleged offender is 12 years of age or younger,~~
 98 the central abuse hotline shall immediately electronically
 99 transfer the report or call to the county sheriff's office. The
 100 department shall conduct an assessment and assist the family in
 101 receiving appropriate services pursuant to s. 39.307~~7~~ and send a
 102 written report of the allegation to the appropriate county
 103 sheriff's office within 48 hours after the initial report is
 104 made to the central abuse hotline.

105 ~~3. If the alleged offender is 13 years of age or older,~~
106 ~~the central abuse hotline shall immediately electronically~~
107 ~~transfer the report or call to the appropriate county sheriff's~~
108 ~~office and send a written report to the appropriate county~~
109 ~~sheriff's office within 48 hours after the initial report to the~~
110 ~~central abuse hotline.~~

111 Section 3. Section 39.307, Florida Statutes, is amended to
112 read:

113 39.307 Reports of child-on-child sexual abuse.—

114 (1) Upon receiving a report alleging juvenile sexual abuse
115 or that a child has exhibited inappropriate sexual behavior as
116 defined in s. 39.01(7), the department shall assist the family
117 in receiving appropriate services to address the allegations of
118 the report. If a child involved in the report is known to the
119 department, the Children's Legal Services office shall promptly
120 notify all parties to the dependency proceeding that a report
121 was received.

122 (a) The department shall create a unified system in its
123 Florida Safe Families Network for identifying and tracking the
124 provision of services to children who have been the victims of
125 sexual abuse or juvenile sexual abuse or who have exhibited
126 inappropriate sexual behavior. This system must not stigmatize
127 such children.

128 (b) It is of the utmost importance that accurate
129 information concerning a child's history of abuse and behavior
130 be included in the system. Persons making placement decisions

131 about a child must consult this information and, when necessary,
132 seek expert assistance in determining what type of placement is
133 safe and appropriate for the child.

134 (c) The department shall measure the number of children in
135 out-of-home care or under supervision of the court who are
136 victims of juvenile sexual abuse.

137 (2) The department, contracted sheriff's office providing
138 protective investigation services, or contracted case management
139 personnel responsible for providing services, at a minimum,
140 shall adhere to the following procedures:

141 (a) The purpose of the response to a report alleging
142 juvenile sexual abuse or inappropriate sexual behavior shall be
143 explained to the caregiver.

144 1. The purpose of the response shall be explained in a
145 manner consistent with legislative purpose and intent provided
146 in this chapter.

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

151 3. The possible consequences of the department's response,
152 including outcomes and services, shall be explained to the
153 caregiver of the alleged abuser ~~juvenile sexual offender~~ or
154 child who has exhibited inappropriate sexual behavior and the
155 victim's caregiver.

156 (b) The caregiver of the alleged abuser ~~juvenile sexual~~

157 ~~offender~~ or child who has exhibited inappropriate sexual
158 behavior and the victim's caregiver shall be involved to the
159 fullest extent possible in determining the nature of the sexual
160 behavior concerns and the nature of any problem or risk to other
161 children.

162 (c) The assessment of risk and the perceived treatment
163 needs of the alleged abuser ~~juvenile sexual offender~~ or child
164 who has exhibited inappropriate sexual behavior, the victim, and
165 respective caregivers shall be conducted by the district staff,
166 the child protection team of the Department of Health, and other
167 providers under contract with the department to provide services
168 to the caregiver of the alleged abuser or child who has
169 exhibited inappropriate sexual behavior ~~offender~~, the victim,
170 and the victim's caregiver.

171 (d) The assessment shall be conducted in a manner that is
172 sensitive to the social, economic, and cultural environment of
173 the family.

174 (e) If necessary, the child protection team of the
175 Department of Health shall conduct a physical examination of the
176 victim, ~~which is~~ sufficient to meet forensic requirements.

177 (f) Based on the information obtained from the alleged
178 abuser ~~juvenile sexual offender~~ or child who has exhibited
179 inappropriate sexual behavior, his or her caregiver, the victim,
180 and the victim's caregiver, an assessment of service and
181 treatment needs must be completed and, if needed, a case plan
182 developed within 30 days.

183 (g) The department shall classify the outcome of the
184 report as follows:

185 1. Report closed. Services were not offered because the
186 department determined that there was no basis for intervention.

187 2. Services accepted by alleged abuser or child who has
188 exhibited inappropriate sexual behavior ~~juvenile sexual~~
189 ~~offender~~. Services were offered to the alleged abuser ~~juvenile~~
190 ~~sexual offender~~ or child who has exhibited inappropriate sexual
191 behavior and accepted by the caregiver.

192 3. Report closed. Services were offered to the alleged
193 abuser ~~juvenile sexual offender~~ or child who has exhibited
194 inappropriate sexual behavior, but ~~were~~ rejected by the
195 caregiver.

196 4. Notification to law enforcement. The risk to the
197 victim's safety and well-being cannot be reduced by the
198 provision of services or the caregiver rejected services, and
199 notification of the alleged delinquent act or violation of law
200 to the appropriate law enforcement agency was initiated.

201 5. Services accepted by victim. Services were offered to
202 the victim and accepted by the caregiver.

203 6. Report closed. Services were offered to the victim but
204 ~~were~~ rejected by the caregiver.

205 (3) If services have been accepted by the alleged abuser
206 ~~juvenile sexual offender~~ or child who has exhibited
207 inappropriate sexual behavior, the victim, and respective
208 caregivers, the department shall designate a case manager and

209 develop a specific case plan.

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

212 (b) The case manager shall periodically review the
213 progress toward achieving the objectives of the plan in order
214 to:

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

217 2. Terminate the case if indicated by successful or
218 substantial achievement of the objectives of the plan.

219 (4) Services provided to the alleged abuser ~~juvenile~~
220 ~~sexual-offender~~ or child who has exhibited inappropriate sexual
221 behavior, the victim, and respective caregivers or family must
222 be voluntary and of necessary duration.

223 (5) If the family or caregiver of the alleged abuser
224 ~~juvenile sexual-offender~~ or child who has exhibited
225 inappropriate sexual behavior fails to adequately participate or
226 allow for the adequate participation of the child in the
227 services or treatment delineated in the case plan, the case
228 manager may recommend that the department:

229 (a) Close the case;

230 (b) Refer the case to mediation or arbitration, if
231 available; or

232 (c) Notify the appropriate law enforcement agency of
233 failure to comply.

234 (6) At any time, as a result of additional information,

235 findings of facts, or changing conditions, the department may
 236 pursue a child protective investigation as provided in this
 237 chapter.

238 (7) The department may ~~is authorized to~~ develop rules and
 239 other policy directives necessary to implement ~~the provisions of~~
 240 this section.

241 Section 4. Paragraph (b) of subsection (4) of section
 242 39.0132, Florida Statutes, is amended to read:

243 39.0132 Oaths, records, and confidential information.—

244 (4)

245 (b) The department shall disclose to the school
 246 superintendent the presence of any child in the care and custody
 247 or under the jurisdiction or supervision of the department who
 248 has a known history of criminal sexual behavior with other
 249 juveniles; ~~is an alleged juvenile sex offender, as defined in s.~~
 250 ~~39.01;~~ or has pled guilty or nolo contendere to, or has been
 251 found to have committed, a violation of chapter 794, chapter
 252 796, chapter 800, s. 827.071, or s. 847.0133, regardless of
 253 adjudication. Any employee of a district school board who
 254 knowingly and willfully discloses such information to an
 255 unauthorized person commits a misdemeanor of the second degree,
 256 punishable as provided in s. 775.082 or s. 775.083.

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

259 39.302 Protective investigations of institutional child
 260 abuse, abandonment, or neglect.—

261 (1) The department shall conduct a child protective
262 investigation of each report of institutional child abuse,
263 abandonment, or neglect. Upon receipt of a report that alleges
264 that an employee or agent of the department, or any other entity
265 or person covered by s. 39.01(32) ~~39.01(33)~~ or (47), acting in
266 an official capacity, has committed an act of child abuse,
267 abandonment, or neglect, the department shall initiate a child
268 protective investigation within the timeframe established under
269 s. 39.201(5) and notify the appropriate state attorney, law
270 enforcement agency, and licensing agency, which shall
271 immediately conduct a joint investigation, unless independent
272 investigations are more feasible. When conducting investigations
273 or having face-to-face interviews with the child, investigation
274 visits shall be unannounced unless it is determined by the
275 department or its agent that unannounced visits threaten the
276 safety of the child. If a facility is exempt from licensing, the
277 department shall inform the owner or operator of the facility of
278 the report. Each agency conducting a joint investigation is
279 entitled to full access to the information gathered by the
280 department in the course of the investigation. A protective
281 investigation must include an interview with the child's parent
282 or legal guardian. The department shall make a full written
283 report to the state attorney within 3 working days after making
284 the oral report. A criminal investigation shall be coordinated,
285 whenever possible, with the child protective investigation of
286 the department. Any interested person who has information

287 regarding the offenses described in this subsection may forward
288 a statement to the state attorney as to whether prosecution is
289 warranted and appropriate. Within 15 days after the completion
290 of the investigation, the state attorney shall report the
291 findings to the department and shall include in the report a
292 determination of whether ~~or not~~ prosecution is justified and
293 appropriate in view of the circumstances of the specific case.

294 Section 6. Paragraph (d) of subsection (4) of section
295 985.04, Florida Statutes, is amended to read:

296 985.04 Oaths; records; confidential information.—

297 (4)

298 (d) The department shall disclose to the school
299 superintendent the presence of any child in the care and custody
300 or under the jurisdiction or supervision of the department who
301 has a known history of criminal sexual behavior with other
302 juveniles; is a child alleged to have engaged in juvenile sexual
303 abuse ~~an alleged juvenile sexual offender,~~ as defined in s.
304 39.01; or has pled guilty or nolo contendere to, or has been
305 found to have committed, a violation of chapter 794, chapter
306 796, chapter 800, s. 827.071, or s. 847.0133, regardless of
307 adjudication. Any employee of a district school board who
308 knowingly and willfully discloses such information to an
309 unauthorized person commits a misdemeanor of the second degree,
310 punishable as provided in s. 775.082 or s. 775.083.

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