

CHAPTER 98-111

Committee Substitute for Committee Substitute for Senate Bill No. 1024

An act relating to false reports of abuse or neglect of a child or of abuse, neglect, or exploitation of a disabled adult or elderly person; amending s. 415.107, F.S.; authorizing the Department of Children and Family Services to provide the identity of a person reporting adult abuse, neglect, or exploitation to a law enforcement agency; amending s. 415.111, F.S.; providing for investigation by local law enforcement agencies of possible false reports; providing for law enforcement entities to handle certain reports of abuse, neglect, or exploitation during the pendency of such an investigation; providing procedures; providing for law enforcement agencies to refer certain reports to the state attorney for prosecution; specifying the penalty for knowingly and willfully making or advising another to make a false report; providing for the Department of Children and Family Services to report annually to the Legislature the number of reports referred to law enforcement agencies for investigation of possible false reports; providing for state attorneys to report annually to the Legislature the number of complaints that have resulted in informations or indictments; amending s. 415.1113, F.S.; increasing the maximum amount of the administrative fine that may be imposed for knowingly and willfully making or counseling another to make a false report; amending s. 415.513, F.S.; deleting the requirement for the Department of Children and Family Services to provide information to the state attorney; providing for the Department of Children and Family Services to report annually to the Legislature the number of reports referred to law enforcement agencies; providing for investigation by local law enforcement agencies of possible false reports; providing for law enforcement agencies to refer certain reports to the state attorney for prosecution; providing for law enforcement entities to handle certain reports of abuse or neglect during the pendency of such an investigation; providing procedures; specifying the penalty for knowingly and willfully making, or advising another to make, a false report; providing for state attorneys to report annually to the Legislature the number of complaints that have resulted in informations or indictments; amending s. 415.5131, F.S.; increasing the maximum amount of the administrative fine that may be imposed for knowingly and willfully making, or counseling another to make, a false report; providing an effective date.

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

Section 1. Subsection (6) of section 415.107, Florida Statutes, is amended to read:

415.107 Confidentiality of reports and records.—

(6) The identity of any person reporting adult abuse, neglect, or exploitation may not be released, without that person's written consent, to any person other than employees of the department responsible for adult protective services, the central abuse registry and tracking system, or the appropriate state attorney or law enforcement agency. This subsection grants protection only for the person who reported the adult abuse, neglect, or exploitation and protects only the fact that the person is the reporter. This subsection does not prohibit the subpoena of a person reporting adult abuse, neglect, or exploitation when deemed necessary by the state attorney or the department to protect a disabled adult or an elderly person who is the subject of a report, if the fact that the person made the report is not disclosed.

Section 2. Present subsections (4) and (5) of section 415.111, Florida Statutes, are redesignated as subsections (5) and (6), respectively, and amended, and a new subsection (4) is added to that section, to read:

415.111 Criminal penalties.—

(4) If the department or its authorized agent has determined after its investigation that a report is false, the department shall, with the consent of the alleged perpetrator, refer the reports to the local law enforcement agency having jurisdiction for an investigation to determine whether sufficient evidence exists to refer the case for prosecution for filing a false report as defined in s. 415.102. During the pendency of the investigation by the local law enforcement agency, the department must notify the local law enforcement agency of and the local law enforcement agency must respond to all subsequent reports concerning the same disabled adult or elderly person in accordance with s. 415.104 or s. 415.1045. If the law enforcement agency believes that there are indicators of abuse, neglect, or exploitation, it must immediately notify the department, which must assure the safety of the disabled adult or elderly person. If the law enforcement agency finds sufficient evidence for prosecution for filing a false report, it must refer the case to the appropriate state attorney for prosecution.

~~(5)(4)~~ A person who knowingly and willfully makes a false report of abuse, neglect, or exploitation of a disabled adult or an elderly person, or a person who advises another to make a false report, commits a felony of the third misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

(a) The department shall establish procedures for determining whether a false report of abuse, neglect, or exploitation of a disabled adult or an elderly person has been made and for submitting all identifying information relating to such a false report to the local law enforcement agency as provided in this subsection and shall report annually to the Legislature the number of reports referred state attorney for prosecution.

(b) Anyone making a report who is acting in good faith is immune from any liability under this subsection.

~~(6)(5)~~ Each state attorney shall establish and publish procedures to facilitate the prosecution of persons under this section and shall report to the

Legislature annually the number of complaints that have resulted in the filing of an information or indictment under this section.

Section 3. Subsection (1) of section 415.1113, Florida Statutes, is amended to read:

415.1113 Administrative fines for false report of abuse, neglect, or exploitation of a disabled adult or an elderly person.—

(1) In addition to any other penalty authorized by this section, chapter 120, or other law, the department may impose a fine, not to exceed \$10,000 \$1,000 for each violation, upon a person who knowingly and willfully makes a false report of abuse, neglect, or exploitation of a disabled adult or an elderly person, or a person who counsels another to make a false report.

Section 4. Subsection (3) of section 415.513, Florida Statutes, is amended, and present subsections (4) and (5) of that section are redesignated as subsections (5) and (6), respectively, and amended, and a new subsection (4) is added to that section, to read:

415.513 Penalties relating to abuse reporting.—

(3) The department shall establish procedures for determining whether a false report of child abuse or neglect has been made and for submitting all identifying information relating to such a report to the appropriate law enforcement agency and shall report annually to the Legislature the number of reports referred the state attorney for prosecution.

(4) If the department or its authorized agent has determined after its investigation that a report is false, the department shall, with the consent of the alleged perpetrator, refer the report to the local law enforcement agency having jurisdiction for an investigation to determine whether sufficient evidence exists to refer the case for prosecution for filing a false report as defined in s. 415.503. During the pendency of the investigation by the local law enforcement agency, the department must notify the local law enforcement agency of and the local law enforcement agency must respond to all subsequent reports concerning children in that same family in accordance with s. 415.505. If the law enforcement agency believes that there are indicators of abuse or neglect, it must immediately notify the department, which must assure the safety of the children. If the law enforcement agency finds sufficient evidence for prosecution for filing a false report, it must refer the case to the appropriate state attorney for prosecution.

(5)(4) A person who knowingly and willfully makes a false report of child abuse or neglect, or who advises another to make a false report, is guilty of a felony of the third misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083. Anyone making a report who is acting in good faith is immune from any liability under this subsection.

(6)(5) Each state attorney shall establish and publish procedures to facilitate the prosecution of persons under this section, and shall report to the Legislature annually the number of complaints that have resulted in the filing of an information or indictment under this section.

Section 5. Subsection (1) of section 415.5131, Florida Statutes, is amended to read:

415.5131 Administrative fines for false report of abuse or neglect of a child.—

(1) In addition to any other penalty authorized by this section, chapter 120, or other law, the department may impose a fine, not to exceed \$10,000 ~~\$1,000~~ for each violation, upon a person who knowingly and willfully makes a false report of abuse or neglect of a child, or a person who counsels another to make a false report.

Section 6. This act shall take effect July 1, 1998.

Became a law without the Governor's approval May 22, 1998.

Filed in Office Secretary of State May 21, 1998.