

CHAPTER 98-158

Committee Substitute for Committee Substitute for Senate Bill No. 1796

An act relating to juvenile sexual offenders; amending s. 39.411, F.S.; requiring that the Department of Children and Family Services notify the school superintendent of any juvenile who has a known history of sexual behavior with other juveniles or who has been convicted of certain specified sexual offenses; providing that it is a second-degree misdemeanor for a school district employee to disclose such information to an unauthorized person; amending s. 490.012, F.S.; prohibiting the unlicensed practice of juvenile sexual offender therapy for compensation; providing an exception; creating s. 490.0145, F.S.; providing that only certain persons licensed under ch. 490, F.S., relating to psychological services, or ch. 491, F.S., relating to clinical, counseling, and psychotherapy services, may hold themselves out as juvenile sexual offender therapists; requiring the Board of Psychology to require training and coursework for juvenile sexual offender therapists; amending s. 491.012, F.S.; defining the offense of the unlawful use of the term "juvenile sexual offender therapist," and providing penalties therefor; prohibiting the unlicensed practice of juvenile sexual offender therapy for compensation; providing an exception; creating s. 491.0144, F.S.; providing for qualifications for licensure as a juvenile sexual offender therapist under ch. 491, F.S., relating to clinical, counseling, and psychotherapy services; creating ss. 943.17291, 943.17295, F.S.; requiring that the Criminal Justice Standards and Training Commission incorporate instruction in investigating juvenile sexual offenders into the course curriculum for law enforcement officers; amending s. 985.04, F.S.; requiring that the Department of Juvenile Justice notify the school superintendent of any juvenile who has a known history of sexual behavior with other juveniles or who has been convicted of certain sexual offenses; providing that it is a second-degree misdemeanor for a school district employee to disclose such information to an unauthorized person; amending s. 985.308, F.S.; requiring that the Department of Juvenile Justice inspect offender commitment programs operated by or under contract with the department based on specified standards; authorizing any child protection team or state attorney to establish a sexual abuse intervention network; providing for membership and prescribing duties of such network; requiring the Office of the Attorney General, the Department of Children and Family Services, the Department of Juvenile Justice, or local juvenile justice councils to award grants to sexual abuse intervention networks; specifying criteria for grant awards; requiring the Office of the Attorney General, in collaboration with the Department of Juvenile Justice and the Department of Children and Family Services, to establish minimum standards for juvenile sex offender day treatment and residential treatment programs funded pursuant to specified provisions; providing rulemaking authority for

the Department of Legal Affairs; deleting rulemaking authority for the Department of Juvenile Justice; providing an effective date.

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

Section 1. Subsection (4) of section 39.411, Florida Statutes, is amended to read:

39.411 Oaths, records, and confidential information.—

(4)(a) All information obtained pursuant to this part in the discharge of official duty by any judge, employee of the court, authorized agent of the department, correctional probation officer, or law enforcement agent ~~is~~ shall be confidential and exempt from ~~the provisions of s. 119.07(1) and~~ may ~~shall~~ not be disclosed to anyone other than the authorized personnel of the court, the department and its designees, correctional probation officers, law enforcement agents, and others entitled under this chapter to receive that information, except upon order of the court.

(b) The department shall disclose to the school superintendent the presence of any child in the care and custody or under the jurisdiction or supervision of the department who has a known history of sexual behavior with other juveniles; is an alleged juvenile sex offender, as defined in s. 415.50165; or has pled guilty or nolo contendere to, or has been found to have committed, a violation of chapter 794, chapter 796, chapter 800, s. 827.071, or s. 847.0133, regardless of adjudication. Any employee of a district school board who knowingly and willfully discloses such information to an unauthorized person commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

Section 2. Subsection (8) is added to section 490.012, Florida Statutes, to read:

490.012 Violations; penalties; injunction.—

(8) Effective October 1, 2000, a person may not practice juvenile sexual offender therapy in this state, as the practice is defined in s. 490.0145, for compensation, unless the person holds an active license issued under this chapter and meets the requirements to practice juvenile sexual offender therapy. An unlicensed person may be employed by a program operated by or under contract with the Department of Juvenile Justice or the Department of Children and Family Services if the program employs a professional who is licensed under chapter 458, chapter 459, s. 490.0145, or s. 491.0144 who manages or supervises the treatment services.

Section 3. Section 490.0145, Florida Statutes, is created to read:

490.0145 The practice of juvenile sexual offender therapy.—Only a person licensed by this chapter who meets the qualifications set by the board may hold himself or herself out as a juvenile sexual offender therapist, except as provided in s. 491.0144. These qualifications shall be determined by the board. The board shall require training and coursework in the specific areas of juvenile sexual offender behaviors, treatments, and related issues.

In establishing these qualifications, the board may refer to the sexual disorder and dysfunction sections of the most current edition of the Diagnostic and Statistical Manual of the American Psychiatric Association, Association for the Treatment of Sexual Abusers Practitioner's Handbook, or other relevant publications.

Section 4. Paragraph (d) of subsection (1) of section 491.012, Florida Statutes, is amended, and paragraph (n) is added to that subsection, to read:

491.012 Violations; penalty; injunction.—

(1) It is unlawful and a violation of this chapter for any person to:

(d) Use the terms psychotherapist, sex therapist, or juvenile sexual offender therapist unless such person is licensed pursuant to this chapter or chapter 490, or is certified under s. 464.012 as an advanced registered nurse practitioner who has been determined by the Board of Nursing as a specialist in psychiatric mental health and the use of such terms is within the scope of her or his practice based on education, training, and licensure.

(n) Effective October 1, 2000, practice juvenile sexual offender therapy in this state, as the practice is defined in s. 491.0144, for compensation, unless the person holds an active license issued under this chapter and meets the requirements to practice juvenile sexual offender therapy. An unlicensed person may be employed by a program operated by or under contract with the Department of Juvenile Justice or the Department of Children and Family Services if the program employs a professional who is licensed under chapter 458, chapter 459, s. 490.0145, or s. 491.0144 who manages or supervises the treatment services.

Section 5. Section 491.0144, Florida Statutes, is created to read:

491.0144 The practice of juvenile sexual offender therapy.—Only a person licensed by this chapter who meets the qualifications set by the board may hold himself or herself out as a juvenile sexual offender therapist, except as provided in s. 490.0145. These qualifications shall be determined by the board. The board shall require training and coursework in the specific areas of juvenile sexual offender behaviors, treatments, and related issues. In establishing these qualifications, the board may refer to the sexual disorder and dysfunction sections of the most current edition of the Diagnostic and Statistical Manual of the American Psychiatric Association, Association for the Treatment of Sexual Abusers Practitioner's Handbook, or other relevant publications.

Section 6. Section 943.17291, Florida Statutes, is created to read:

943.17291 Basic skills training in juvenile sexual offender investigation.—The commission shall incorporate juvenile sexual offender investigation instruction into the course curriculum required for a law enforcement officer to obtain initial certification.

Section 7. Section 943.17295, Florida Statutes, is created to read:

943.17295 Continued employment training relating to juvenile sexual offender investigation.—The commission shall incorporate the subject of sexual abuse and assault investigation, with an emphasis on cases involving child victims or juvenile offenders, into the curriculum required for continuous employment or appointment as a law enforcement officer.

Section 8. Subsection (3) of section 985.04, Florida Statutes, is amended to read:

985.04 Oaths; records; confidential information.—

(3)(a) Except as provided in subsections (2), (4), (5), and (6), and s. 943.053, all information obtained under this part in the discharge of official duty by any judge, any employee of the court, any authorized agent of the Department of Juvenile Justice, the Parole Commission, the Juvenile Justice Advisory Board, the Department of Corrections, the district juvenile justice boards, any law enforcement agent, or any licensed professional or licensed community agency representative participating in the assessment or treatment of a juvenile is confidential and may be disclosed only to the authorized personnel of the court, the Department of Juvenile Justice and its designees, the Department of Corrections, the Parole Commission, the Juvenile Justice Advisory Board, law enforcement agents, school superintendents and their designees, any licensed professional or licensed community agency representative participating in the assessment or treatment of a juvenile, and others entitled under this chapter to receive that information, or upon order of the court. Within each county, the sheriff, the chiefs of police, the district school superintendent, and the department shall enter into an interagency agreement for the purpose of sharing information about juvenile offenders among all parties. The agreement must specify the conditions under which summary criminal history information is to be made available to appropriate school personnel, and the conditions under which school records are to be made available to appropriate department personnel. Such agreement shall require notification to any classroom teacher of assignment to the teacher's classroom of a juvenile who has been placed in a community control or commitment program for a felony offense. The agencies entering into such agreement must comply with s. 943.0525, and must maintain the confidentiality of information that is otherwise exempt from s. 119.07(1), as provided by law.

(b) The department shall disclose to the school superintendent the presence of any child in the care and custody or under the jurisdiction or supervision of the department who has a known history of sexual behavior with other juveniles; is an alleged juvenile sex offender, as defined in s. 415.50165; or has pled guilty or nolo contendere to, or has been found to have committed, a violation of chapter 794, chapter 796, chapter 800, s. 827.071, or s. 847.0133, regardless of adjudication. Any employee of a district school board who knowingly and willfully discloses such information to an unauthorized person commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

Section 9. Section 985.308, Florida Statutes, is amended to read:

985.308 Juvenile sexual offender commitment programs; sexual abuse intervention networks.—

(1) In order to provide intensive treatment and psychological services to a juvenile sexual offender committed to the department, it is the intent of the Legislature to establish programs and strategies to effectively respond to juvenile sexual offenders. In designing programs for juvenile sexual offenders, it is the further intent of the Legislature to implement strategies that include:

(a) Developing adequate commitment programs and facilities to ensure appropriate and effective treatment and ensure that decisions to release juvenile sexual offenders into the community are not made on the basis of inadequate space.

(b) Providing an adequate number of well-trained staff to address the treatment needs of juvenile sexual offenders.

(c) Providing intensive postcommitment supervision of juvenile sexual offenders who are released into the community with terms and conditions which may include electronic monitoring of a juvenile sexual offender for the purpose of enhancing public safety.

(d) Providing notification to the school to which the juvenile sexual offender is returning, the parents or legal guardians of the victim, and law enforcement, when a juvenile sexual offender returns into the community.

(2) Contingent upon a specific appropriation, the department shall implement and operate programs to provide intensive educational and psychological services and other treatment for juvenile sexual offenders.

(3) Subject to specific appropriation, a child may be placed in a juvenile sexual offender program when committed to the department.

(4) The program shall include educational components, life management training, substance abuse treatment, and intensive psychological treatment provided by appropriate mental health professionals. Juvenile sexual offenders shall be required to participate in all programs and treatment.

(5) The department shall provide an intensive aftercare component for monitoring and assisting the transition of a juvenile sexual offender into the community with terms and conditions which may include electronic monitoring of the juvenile sexual offender.

(6) The department shall establish protocol and procedures to notify schools, the appropriate law enforcement agencies, and the court when a juvenile sexual offender returns to the community.

(7) The department may contract with private organizations for the operation of a juvenile sexual offender program and aftercare.

(8) The Juvenile Justice Standards and Training Commission shall establish criteria for training all contract and department staff or provide a special training program for contract and department staff to effectively

manage and provide services and treatment to a juvenile sexual offender in a juvenile sexual offender program.

(9) ~~The department shall be required to~~ conduct inspections of and quality assurance activities for each juvenile sexual offender program operated by or under contract with the department, based on standards specifically developed for these types of programs, to determine whether the program complies with department rules for continued operation of the program.

(10) The department shall maintain records and other information necessary to evaluate the effectiveness of each juvenile sexual offender program and other outcome evaluation requirements.

(11) A child protection team or the state attorney in any judicial circuit may establish a sexual abuse intervention network to assist in identifying, investigating, prosecuting, treating, and preventing sexual abuse with special emphasis on juvenile sexual offenders and victims of sexual abuse.

(12) Membership of a sexual abuse intervention network shall include, but are not limited to, representatives from:

(a) Local law enforcement agencies;

(b) Local school boards;

(c) Child protective investigators;

(d) The Office of the State Attorney;

(e) The Office of the Public Defender;

(f) The juvenile division of the circuit court;

(g) Professionals licensed under chapter 458, chapter 459, s. 490.0145, or s. 491.0144 providing treatment for juvenile sexual offenders or their victims;

(h) The guardian ad litem program;

(i) The Department of Juvenile Justice; and

(j) The Department of Children and Family Services.

(13) Each sexual abuse intervention network shall develop a cooperative working agreement describing the roles and responsibilities of all members towards the identification, investigation, prosecution, treatment, and reintegration of juvenile sexual offenders and the treatment of their victims.

(14) Subject to specific appropriation, availability of funds, or receipt of appropriate grant funds, the Office of the Attorney General, the Department of Children and Family Services, the Department of Juvenile Justice, or local juvenile justice councils shall award grants to sexual abuse intervention networks that apply for such grants. The grants may be used for training, treatment, aftercare, evaluation, public awareness, and other specified

community needs that are identified by the network. A grant shall be awarded based on the applicant's level of local funding, level of collaboration, number of juvenile sexual offenders to be served, number of victims to be served, and level of unmet needs. The Department of Legal Affairs' Office of the Attorney General, in collaboration with the Department of Juvenile Justice and the Department of Children and Family Services, shall establish by rule minimum standards for each respective department for residential and day treatment juvenile sexual offender programs funded under this subsection.

~~(15)(14) The Department of Legal Affairs department may adopt is authorized to establish rules and other policy directives necessary to award grants under implement the provisions of this section.~~

Section 10. 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.