

## CHAPTER 99-168

### Committee Substitute for Committee Substitute for Senate Bill No. 338

An act relating to the protection of children; creating the “Kayla McKean Child Protection Act”; providing legislative intent; amending s. 39.01, F.S.; redefining the term “harm” for purposes of ch. 39, F.S., to include the act of placing a child with another person to avoid or impede a protective investigation; redefining the term “participant” to include providers when designated by the court; amending s. 39.201, F.S.; requiring that a judge report known or suspected child abuse; requiring that the Department of Children and Family Services accept certain reports of child abuse for investigation; providing additional requirements for the department with respect to recording calls on the central abuse hotline; requiring that the department’s quality assurance program review reports made to the hotline which involve a specified number of reports on a single child; amending s. 39.202, F.S.; providing for certain persons who report child abuse to request a summary of the investigation; amending s. 39.205, F.S.; increasing the penalties imposed for failing to report child abuse or preventing the reporting of child abuse, unless the court finds the offender is a victim of domestic violence; amending s. 39.301, F.S.; requiring notification of the appropriate law enforcement agency of reports provided to the department’s district staff; requiring review; requiring criminal investigation, if warranted; requiring that the department maintain certain information on child abuse investigations; providing requirements for assigning multidisciplinary staff to an investigation; requiring that the department establish an internal operating procedure governing the completion of investigatory activities; revising requirements for conducting risk assessments and onsite child protective investigations; authorizing the department to conduct unannounced visits and interviews; requiring that the department adopt rules specifying criteria under which a child is taken into custody, that a petition be filed with the court, or that an administrative review be held; requiring documentation; requiring that law enforcement agencies participating in an investigation take photographs of the child’s living environment which shall be part of the investigative file; requiring certain training; amending s. 39.302, F.S.; authorizing the department to conduct unannounced visits when conducting an investigation; requiring that the department conduct certain onsite visits; amending s. 39.303, F.S.; providing for a child protection team to include a representative of the school district; providing for medical evaluations in certain cases of child abuse, abandonment, and neglect; specifying additional conditions that must be evaluated by the child protection team; amending s. 39.304, F.S.; requiring that photographs be taken of visible trauma on a child which shall be part of the investigative file; amending s. 39.306, F.S.; specifying local criminal history information that a law enforcement entity is authorized to share; amending s. 39.402, F.S.; authorizing the court

to order that a child remain in the department's custody for an additional period in order for the court to determine risk to the child; requiring that the department provide certain information to the court at the shelter hearing; creating s. 383.402, F.S.; creating the State Child Abuse Death Review Committee; providing for membership of the committee; specifying the duties of the committee; providing for terms of office; providing for members of the committee to be reimbursed for expenses; providing for counties to establish local child abuse death review committees; providing for membership and duties; authorizing the review committees to have access to information pertaining to the death of a child; authorizing providers to charge a specified fee; authorizing the State Child Abuse Death Review Committee to issue subpoenas; requiring the Department of Health to administer the funds appropriated to operate the review committees; requiring that the Department of Children and Family Services appoint a child abuse death review coordinator in each district; amending s. 409.1671, F.S.; requiring a case-transfer process; requiring that private providers furnish status reports to the Department of Children and Family Services; prohibiting a provider from discontinuing services without the department's written notification; requiring that contracts between the department and community-based agencies include provisions for dispute resolution; amending s. 777.03, F.S.; providing that certain actions to assist an offender who has committed child abuse, child neglect, or the manslaughter or murder of a child under a specified age constitute acting as an accessory after the fact; providing penalties; amending s. 827.03, F.S.; increasing the penalties imposed for the offense of aggravated child abuse; amending s. 921.0022, F.S., relating to the offense severity ranking chart of the Criminal Punishment Code; conforming provisions to changes made by the act; amending s. 934.03, F.S.; authorizing the central abuse hotline to record incoming wire communications; amending s. 39.823, F.S., relating to guardian advocates for newborns; conforming a cross-reference to changes made by the act; requiring the Department of Health to develop a plan for county child protection teams; requiring the Department of Children and Family Services to contract with an independent entity to evaluate the central abuse hotline; providing appropriations; providing for an analysis and report by the Office of Program Policy Analysis and Government Accountability; providing an effective date.

WHEREAS, national statistics indicate that 46 percent of children who died as a result of child abuse or neglect had prior contact with the state child protection agency, and

WHEREAS, more than 79,000 children in Florida were abused or neglected in fiscal year 1997-1998, and a number of these children died as a result of being abused, and

WHEREAS, 10 percent of the abused or neglected children in this state were abused or neglected again within 1 year after the case was closed by the Department of Children and Family Services, and

WHEREAS, the Legislature abhors a child protection system that allows a child who is known to be at serious risk to remain in a dangerous home and be further harmed, even killed, and

WHEREAS, the recent deaths of children in this state which resulted from the maltreatment of children by their parents, family members, or caregivers emphasize the need to enhance the protection of the health and safety of children served by Florida's child protection system by means that include strengthening the identification and assessment of those parents, family members, or other caregivers who are involved in or at risk of engaging in abusive or neglectful behavior, NOW, THEREFORE,

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

Section 1. Short title.—This act may be cited as the “Kayla McKean Child Protection Act.”

Section 2. Legislative intent.—The Legislature intends to identify those gaps or shortcomings in the current child protection system, including those gaps or shortcomings in child protection services provided by the Department of Children and Family Services and its contract providers, by child protection teams, by law enforcement agencies, by schools, and by the courts, in order to make the system more responsive to children who are at risk of child abuse or neglect.

Section 3. Paragraph (l) is added to subsection (30) of section 39.01, Florida Statutes, 1998 Supplement, and subsection (50) of that section is amended, to read:

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

(30) “Harm” to a child’s health or welfare can occur when the parent, legal custodian, or caregiver responsible for the child’s welfare:

(l) Makes the child unavailable for the purpose of impeding or avoiding a protective investigation unless the court determines that the parent, legal custodian, or caregiver was fleeing from a situation involving domestic violence.

(50) “Participant,” for purposes of a shelter proceeding, dependency proceeding, or termination of parental rights proceeding, means any person who is not a party but who should receive notice of hearings involving the child, including foster parents or caregivers, identified prospective parents, grandparents entitled to priority for adoption consideration under s. 63.0425, actual custodians of the child, and any other person whose participation may be in the best interest of the child. A community-based agency under contract with the department to provide protective services may be designated as a participant at the discretion of the court. Participants may be granted leave by the court to be heard without the necessity of filing a motion to intervene.

Section 4. Subsections (1) and (2) of section 39.201, Florida Statutes, 1998 Supplement, are amended, and subsections (8) and (9) are added to that section, to read:

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

(1) Any person, including, but not limited to, any:

(a) Physician, osteopathic physician, medical examiner, chiropractic physician, nurse, or hospital personnel engaged in the admission, examination, care, or treatment of persons;

(b) Health or mental health professional other than one listed in paragraph (a);

(c) Practitioner who relies solely on spiritual means for healing;

(d) School teacher or other school official or personnel;

(e) Social worker, day care center worker, or other professional child care, foster care, residential, or institutional worker; or

(f) Law enforcement officer; ~~or,~~

(g) Judge.

who knows, or has reasonable cause to suspect, that a child is an abused, abandoned, or neglected child shall report such knowledge or suspicion to the department in the manner prescribed in subsection (2).

(2)(a) Each report of known or suspected child abuse, abandonment, or neglect pursuant to this section, except those solely under s. 827.04(3), shall be made immediately to the department's central abuse hotline on the single statewide toll-free telephone number, and, if the report is of an instance of known or suspected child abuse by a noncaretaker, the call shall be immediately electronically transferred to the appropriate county sheriff's office by the central abuse hotline. If the report is of an instance of known or suspected child abuse involving impregnation of a child under 16 years of age by a person 21 years of age or older solely under s. 827.04(3), the report shall be made immediately to the appropriate county sheriff's office or other appropriate law enforcement agency. If the report is of an instance of known or suspected child abuse solely under s. 827.04(3), the reporting provisions of this subsection do not apply to health care professionals or other persons who provide medical or counseling services to pregnant children when such reporting would interfere with the provision of medical services.

(b) The department must consider valid and accept for investigation any report received by the central abuse hotline from a judge, teacher or other professional school official, or physician, as specified in paragraph (1)(a), paragraph (1)(d), or paragraph (1)(g), who is acting in his or her professional capacity, alleging harm as defined in s. 39.01.

(c)(b) Reporters in occupation categories designated in subsection (1) are required to provide their names to the hotline staff. The names of reporters shall be entered into the record of the report, but shall be held confidential as provided in s. 39.202.

(d)(e) Reports involving known or suspected institutional child abuse or neglect shall be made and received in the same manner as all other reports made pursuant to this section.

(e)(d) Reports involving a known or suspected juvenile sexual offender shall be made and received by the department.

1. The department shall determine the age of the alleged juvenile sexual offender if known.

2. When the alleged juvenile sexual offender is 12 years of age or younger, the department shall proceed with an investigation of the report pursuant to this part, immediately electronically transfer the call to the appropriate law enforcement agency office by the central abuse hotline, and send a written report of the allegation to the appropriate county sheriff's office within 48 hours after the initial report is made to the central abuse hotline.

3. When the alleged juvenile sexual offender is 13 years of age or older, the department shall immediately electronically transfer the call to the appropriate county sheriff's office by the central abuse hotline, and send a written report to the appropriate county sheriff's office within 48 hours after the initial report to the central abuse hotline.

(f)(e) Hotline counselors shall receive periodic training in encouraging reporters to provide their names when reporting abuse, abandonment, or neglect. Callers shall be advised of the confidentiality provisions of s. 39.202. The department shall secure and install electronic equipment that automatically provides to the hotline the number from which the call is placed. This number shall be entered into the report of abuse, abandonment, or neglect and become a part of the record of the report, but shall enjoy the same confidentiality as provided to the identity of the caller pursuant to s. 39.202.

(g) The department shall voice-record all incoming or outgoing calls that are received or placed by the central abuse hotline which relate to suspected or known child abuse, neglect, or abandonment. The recording shall become a part of the record of the report, but is subject to the same confidentiality as is provided to the identity of the caller under s. 39.202.

(8) Nothing in this chapter or in the privatization of foster care and related services as specified in s. 409.1671 shall be construed to remove or reduce the duty and responsibility of any person, including any employee of the privatization provider, to report a suspected or actual case of child abuse, abandonment, or neglect or the sexual abuse of a child to the department's central abuse hotline.

(9) On an ongoing basis, the department's quality assurance program shall review reports to the hotline involving three or more unaccepted reports on a single child in order to detect such things as harassment and

situations that warrant an investigation because of the frequency or variety of the source of the reports. The assistant secretary may refer a case for investigation when it is determined, as a result of this review, that an investigation may be warranted.

Section 5. Subsection (4) of section 39.202, Florida Statutes, 1998 Supplement, is amended to read:

39.202 Confidentiality of reports and records in cases of child abuse or neglect.—

(4) The name of any person reporting child abuse, abandonment, or neglect may not be released to any person other than employees of the department responsible for child protective services, the central abuse hotline, law enforcement, or the appropriate state attorney, without the written consent of the person reporting. This does not prohibit the subpoenaing of a person reporting child abuse, abandonment, or neglect when deemed necessary by the court, the state attorney, or the department, provided the fact that such person made the report is not disclosed. Any person who reports a case of child abuse or neglect may, at the time he or she makes the report, request that the department notify him or her that a child protective investigation occurred as a result of the report. Any person specifically listed in s. 39.201(1) who makes a report in his or her official capacity may also request a written summary of the outcome of the investigation. The department shall mail such a notice to the reporter within 10 days after completing the child protective investigation.

Section 6. Section 39.205, Florida Statutes, 1998 Supplement, is amended to read:

39.205 Penalties relating to reporting of child abuse, abandonment, or neglect.—

(1) A person who is required to report known or suspected child abuse, abandonment, or neglect and who knowingly and willfully fails to do so, or who knowingly and willfully prevents another person from doing so, is guilty of a misdemeanor of the ~~first~~ second degree, punishable as provided in s. 775.082 or s. 775.083.

(2) Unless the court finds that the person is a victim of domestic violence or that other mitigating circumstances exist, a person who is 18 years of age or older and lives in the same house or living unit as a child who is known or suspected to be a victim of child abuse, neglect of a child, or aggravated child abuse, and knowingly and willfully fails to report the child abuse commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(3)(2) A person who knowingly and willfully makes public or discloses any confidential information contained in the central abuse hotline or in the records of any child abuse, abandonment, or neglect case, except as provided in this chapter, is guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

(4)(3) The department shall establish procedures for determining whether a false report of child abuse, abandonment, 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.

(5)(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. 39.01(27). 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. 39.301. If the law enforcement agency believes that there are indicators of abuse, abandonment, 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.

(6)(5) A person who knowing and willfully makes a false report of child abuse, abandonment, or neglect, or who advises another to make a false report, is guilty of a felony of the third 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.

(7)(6) Each state attorney shall establish and publish written 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 and the disposition of those complaints under this section.

Section 7. Section 39.301, Florida Statutes, 1998 Supplement, is amended to read:

### 39.301 Initiation of protective investigations.—

(1) Upon receiving an oral or written report of known or suspected child abuse, abandonment, or neglect, the central abuse hotline shall determine if the report requires an immediate onsite protective investigation. For reports requiring an immediate onsite protective investigation, the central abuse hotline shall immediately notify the department's designated children and families district staff responsible for protective investigations to ensure that an onsite investigation is promptly initiated. For reports not requiring an immediate onsite protective investigation, the central abuse hotline shall notify the department's designated children and families district staff responsible for protective investigations in sufficient time to allow for an investigation. At the time of notification of district staff with respect to the report, the central abuse hotline shall also provide information on any previous report concerning a subject of the present report or any pertinent information relative to the present report or any noted earlier reports.

(2) Upon notification by the department's central abuse hotline under subsection (1), the designated child protective investigator shall immediately notify the appropriate law enforcement agency of the county in which the known or suspected child abuse, abandonment, or neglect is believed to have occurred. Upon receipt of a report, the law enforcement agency must review the report and determine whether a criminal investigation of the case is warranted and, if so, shall conduct the criminal investigation that shall be coordinated, whenever possible, with the child protective investigation of the department or its agent.

(3) The department shall maintain a master file for each child whose report is accepted by the central abuse hotline for investigation. Such file must contain information concerning all reports received concerning that child. The file must be made available to any department staff, agent of the department, or contract provider given responsibility for conducting a protective investigation.

(4) To the extent practical, all protective investigations involving a child shall be conducted or the work supervised by a single individual in order for there to be broad knowledge and understanding of the child's history. When a new investigator is assigned to investigate a second and subsequent report involving a child, a multidisciplinary staffing shall be conducted which includes new and prior investigators, their supervisors, and appropriate private providers in order to ensure that, to the extent possible, there is coordination among all parties. The department shall establish an internal operating procedure that ensures that all required investigatory activities, including a review of the child's complete investigative and protective services history, are completed by the investigator, reviewed by the supervisor in a timely manner, and signed and dated by both the investigator and the supervisor.

(5)(2)(a) Upon commencing an investigation under this part, the child protective investigator shall inform any subject of the investigation of the following:

1. The names of the investigators and identifying credentials from the department.
2. The purpose of the investigation.
3. The right to obtain his or her own attorney and ways that the information provided by the subject may be used.
4. The possible outcomes and services of the department's response shall be explained to the caregiver.
5. The right of the parent, legal custodian, or caregiver to be involved to the fullest extent possible in determining the nature of the allegation and the nature of any identified problem.

(b) The department's training program shall ensure that protective investigators know how to fully inform parents, guardians, and caregivers of their rights and options, including opportunities for audio or video recording of investigators' interviews with parents, guardians, caretakers, or children.

(6)(3) An assessment of risk and the perceived needs for the child and family shall be conducted in a manner that is sensitive to the social, economic, and cultural environment of the family. This assessment must include a face-to-face interview with the child, other siblings, parents, and other adults in the household and an onsite assessment of the child's residence.

(7)(4) Protective investigations shall be performed by the department or its agent.

(8)(5) The person responsible for the investigation shall make a preliminary determination as to whether the report or complaint is complete, consulting with the attorney for the department when necessary. In any case in which the person responsible for the investigation finds that the report or complaint is incomplete, he or she shall return it without delay to the person or agency originating the report or complaint or having knowledge of the facts, or to the appropriate law enforcement agency having investigative jurisdiction, and request additional information in order to complete the report or complaint; however, the confidentiality of any report filed in accordance with this chapter shall not be violated.

(a) If it is determined that the report or complaint is complete, after determining that such action would be in the best interests of the child, the attorney for the department shall file a petition for dependency.

(b) If it is determined that the report or complaint is complete, but the interests of the child and the public will be best served by providing the child care or other treatment voluntarily accepted by the child and the parents, caregivers, or legal custodians, the protective investigator may refer the child for such care or other treatment.

(c) If the person conducting the investigation refuses to request the attorney for the department to file a petition for dependency, the complainant shall be advised of the right to file a petition pursuant to this part.

(9)(6) For each report it receives, the department shall perform an onsite child protective investigation that includes a face-to-face interview with the child, other siblings, parents, and other adults in the household and an onsite assessment of the child's residence in order to:

(a) Determine the composition of the family or household, including the name, address, date of birth, social security number, sex, and race of each child named in the report; any siblings or other children in the same household or in the care of the same adults; the parents, legal custodians, or caregivers; and any other adults in the same household.

(b) Determine whether there is indication that any child in the family or household has been abused, abandoned, or neglected; the nature and extent of present or prior injuries, abuse, or neglect, and any evidence thereof; and a determination as to the person or persons apparently responsible for the abuse, abandonment, or neglect, including the name, address, date of birth, social security number, sex, and race of each such person.

(c) Determine the immediate and long-term risk to each child by conducting state and federal records checks, including, when feasible, the records of the Department of Corrections, on the parents, legal custodians, or caregivers, and any other persons in the same household. This information shall be used solely for purposes supporting the detection, apprehension, prosecution, pretrial release, posttrial release, or rehabilitation of criminal offenders or persons accused of the crimes of child abuse, abandonment, or neglect and shall not be further disseminated or used for any other purpose. The department's child protection investigators are hereby designated a criminal justice agency for the purpose of accessing criminal justice information to be used for enforcing this state's laws concerning the crimes of child abuse, abandonment, and neglect.

(d) Determine the immediate and long-term risk to each child through utilization of standardized risk assessment instruments.

(e) Based on the information obtained from the caregiver, complete the risk assessment instrument within 48 hours after the initial contact and, if needed, develop a case plan.

(f) Determine the protective, treatment, and ameliorative services necessary to safeguard and ensure the child's safety and well-being and development, and cause the delivery of those services through the early intervention of the department or its agent.

~~(10)(7)~~ If the department or its agent is denied reasonable access to a child by the parents, legal custodians, or caregivers and the department deems that the best interests of the child so require, it shall seek an appropriate court order or other legal authority prior to examining and interviewing the child.

(11) Onsite visits and face-to-face interviews with the child or family shall be unannounced unless it is determined by the department or its agent or contract provider that such unannounced visit would threaten the safety of the child.

~~(12)(a)(8)~~ If the department or its agent determines that a child requires immediate or long-term protection through:

1.(a) Medical or other health care;

2.(b) Homemaker care, day care, protective supervision, or other services to stabilize the home environment, including intensive family preservation services through the Family Builders Program, the Intensive Crisis Counseling Program, or both; or

3.(c) Foster care, shelter care, or other substitute care to remove the child from the custody of the parents, legal guardians, or caregivers,

such services shall first be offered for voluntary acceptance unless there are high-risk factors that may impact the ability of the parents, legal guardians, or caregivers to exercise judgment. Such factors may include the parents',

legal guardians', or caregivers' young age or history of substance abuse or domestic violence.

(b) The parents, legal custodians, or caregivers shall be informed of the right to refuse services, as well as the responsibility of the department to protect the child regardless of the acceptance or refusal of services. If the services are refused and the department deems that the child's need for protection so requires, the department shall take the child into protective custody or petition the court as provided in this chapter.

(c) The department, in consultation with the judiciary, shall adopt by rule criteria that are factors requiring that the department take the child into custody, petition the court as provided in this chapter, or, if the child is not taken into custody or a petition is not filed with the court, conduct an administrative review. If after an administrative review the department determines not to take the child into custody or petition the court, the department shall document the reason for its decision in writing and include it in the investigative file. For all cases that were accepted by the local law enforcement agency pursuant to subsection (2), the department must include in the file written documentation that the administrative review included input from law enforcement. In addition, for all cases that must be referred to child protection teams pursuant to s. 39.303(2) and (3), the file must include written documentation that the administrative review included the results of the medical evaluation. Factors that must be included in the development of the rule include noncompliance with the case plan developed by the department, or its agent, and the family under this chapter and prior abuse reports with findings that involve the child or caregiver.

~~(13)~~(9) When a child is taken into custody pursuant to this section, the authorized agent of the department shall request that the child's parent, caregiver, or legal custodian disclose the names, relationships, and addresses of all parents and prospective parents and all next of kin, so far as are known.

~~(14)~~(40) No later than 30 days after receiving the initial report, the local office of the department shall complete its investigation.

~~(15)~~(41) ~~Immediately upon receipt of a report alleging, or immediately upon learning during the course of an investigation, that:~~

- (a) The immediate safety or well-being of a child is endangered;
- (b) The family is likely to flee;
- (c) A child died as a result of abuse, abandonment, or neglect;
- (d) A child is a victim of aggravated child abuse as defined in s. 827.03;  
or
- (e) A child is a victim of sexual battery or of sexual abuse,

the department shall orally notify the jurisdictionally responsible state attorney, and county sheriff's office or local police department, and, within 3

~~days as soon as practicable~~, transmit the written report to those agencies. The law enforcement agency shall review the report and determine whether a criminal investigation needs to be conducted and shall assume lead responsibility for all criminal fact-finding activities. A criminal investigation shall be coordinated, whenever possible, with the child protective investigation of the department. Any interested person who has information regarding an offense described in this subsection may forward a statement to the state attorney as to whether prosecution is warranted and appropriate.

~~(16)(12)~~ In a child protective investigation or a criminal investigation, when the initial interview with the child is conducted at school, the department or the law enforcement agency may allow, notwithstanding the provisions of s. 39.0132(4), a school instructional staff member who is known by the child to be present during the initial interview if:

(a) The department or law enforcement agency believes that the school instructional staff member could enhance the success of the interview by his or her presence; and

(b) The child requests or consents to the presence of the school instructional staff member at the interview.

School instructional staff may only be present when authorized by this subsection. Information received during the interview or from any other source regarding the alleged abuse or neglect of the child shall be confidential and exempt from the provisions of s. 119.07(1), except as otherwise provided by court order. A separate record of the investigation of the abuse, abandonment, or neglect shall not be maintained by the school or school instructional staff member. Violation of this subsection constitutes a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

(17) When a law enforcement agency is participating in an investigation, the agency shall take photographs of the child's living environment. Such photographs shall become part of the investigative file.

~~(18)(13)~~ Within 15 days after the completion of the investigation of cases reported to him or her pursuant to this section, the state attorney shall report his or her findings to the department and shall include in such report a determination of whether or not prosecution is justified and appropriate in view of the circumstances of the specific case.

(19) In order to enhance the skills of individual staff and to improve the district's overall child protection system, the department's training program at the district level must include periodic reviews of cases handled within the district in order to identify weaknesses as well as examples of effective interventions that occurred at each point in the case.

Section 8. Subsection (1) of section 39.302, Florida Statutes, 1998 Supplement, 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 which alleges that an employee or agent of the department, or any other entity or person covered by s. 39.01(32) or (47), acting in an official capacity, has committed an act of child abuse, abandonment, or neglect, the department shall immediately initiate a child protective investigation and orally notify the appropriate state attorney, law enforcement agency, and licensing agency. These agencies shall immediately conduct a joint investigation, unless independent investigations are more feasible. When conducting investigations onsite or having face-to-face interviews with the child, such investigation visits shall be unannounced unless it is determined by the department or its agent that such unannounced visits would threaten the safety of the child. When 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 shall be entitled to full access to the information gathered by the department in the course of the investigation. A protective investigation must include an onsite visit of the child's place of residence. In all cases, the department shall make a full written report to the state attorney within 3 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 such report a determination of whether or not prosecution is justified and appropriate in view of the circumstances of the specific case.

Section 9. Section 39.303, Florida Statutes, 1998 Supplement, is amended to read:

39.303 Child protection teams; services; eligible cases.—The Division of Children's Medical Services of the Department of Health shall develop, maintain, and coordinate the services of one or more multidisciplinary child protection teams in each of the service districts of the Department of Children and Family Services. Such teams may be composed of appropriate representatives of school districts and appropriate health, mental health, social service, legal service, and law enforcement agencies. The Legislature finds that optimal coordination of child protection teams and sexual abuse treatment programs requires collaboration between the Department of Health and the Department of Children and Family Services. The two departments shall maintain an interagency agreement that establishes protocols for oversight and operations of child protection teams and sexual abuse treatment programs. The Secretary of Health and the Deputy Secretary for Children's Medical Services, in consultation with the Secretary of Children and Family Services, shall maintain the responsibility for the screening, employment, and, if necessary, the termination of child protection team medical directors, at headquarters and in the 15 districts. Child protection team medical directors shall be responsible for oversight of the teams in the districts.

(1) The Department of Health shall utilize and convene the teams to supplement the assessment and protective supervision activities of the family safety and preservation program of the Department of Children and Family Services. Nothing in this section shall be construed to remove or reduce the duty and responsibility of any person to report pursuant to this chapter all suspected or actual cases of child abuse, abandonment, or neglect or sexual abuse of a child. The role of the teams shall be to support activities of the program and to provide services deemed by the teams to be necessary and appropriate to abused, abandoned, and neglected children upon referral. The specialized diagnostic assessment, evaluation, coordination, consultation, and other supportive services that a child protection team shall be capable of providing include, but are not limited to, the following:

(a) Medical diagnosis and evaluation services, including provision or interpretation of X rays and laboratory tests, and related services, as needed, and documentation of findings relative thereto.

(b) Telephone consultation services in emergencies and in other situations.

(c) Medical evaluation related to abuse, abandonment, or neglect, as defined by policy or rule of the Department of Health.

(d) Such psychological and psychiatric diagnosis and evaluation services for the child or the child's parent or parents, legal custodian or custodians, or other caregivers, or any other individual involved in a child abuse, abandonment, or neglect case, as the team may determine to be needed.

(e) Expert medical, psychological, and related professional testimony in court cases.

(f) Case staffings to develop treatment plans for children whose cases have been referred to the team. A child protection team may provide consultation with respect to a child who is alleged or is shown to be abused, abandoned, or neglected, which consultation shall be provided at the request of a representative of the family safety and preservation program or at the request of any other professional involved with a child or the child's parent or parents, legal custodian or custodians, or other caregivers. In every such child protection team case staffing, consultation, or staff activity involving a child, a family safety and preservation program representative shall attend and participate.

(g) Case service coordination and assistance, including the location of services available from other public and private agencies in the community.

(h) Such training services for program and other employees of the Department of Children and Family Services, employees of the Department of Health, and other medical professionals as is deemed appropriate to enable them to develop and maintain their professional skills and abilities in handling child abuse, abandonment, and neglect cases.

(i) Educational and community awareness campaigns on child abuse, abandonment, and neglect in an effort to enable citizens more successfully

to prevent, identify, and treat child abuse, abandonment, and neglect in the community.

(2) ~~The child abuse, abandonment, and neglect reports cases that must be referred are appropriate for referral by the Department of Children and Family Services family safety and preservation program to child protection teams of the Department of Health for medical evaluation and available support services as set forth in subsection (1) must include, but are not limited to, cases involving:~~

(a) ~~Bruises, burns, or fractures in a child under the age of 3 years or in a nonambulatory child of any age.~~

(b) ~~Unexplained or implausibly explained bruises, burns, fractures, or other injuries in a child of any age.~~

(b)(c) ~~Sexual abuse of a child in which vaginal or anal penetration is alleged or in which other unlawful sexual conduct has been determined to have occurred.~~

(c)(d) ~~Venereal disease, or any other sexually transmitted disease, in a prepubescent child.~~

(d)(e) ~~Reported malnutrition of a child and failure of a child to thrive.~~

(e)(f) ~~Reported medical, physical, or emotional neglect of a child.~~

(f)(g) ~~Any family in which one or more children have been pronounced dead on arrival at a hospital or other health care facility, or have been injured and later died, as a result of suspected abuse, abandonment, or neglect, when any sibling or other child remains in the home.~~

(g)(h) ~~Symptoms of serious emotional problems in a child when emotional or other abuse, abandonment, or neglect is suspected.~~

(h) ~~Injuries to a child's head.~~

(3) ~~All abuse and neglect cases transmitted for investigation to a district by the hotline must be simultaneously transmitted to the Department of Health child protection team for review. All cases transmitted to the child protection team which meet the criteria in subsection (2) must be timely reviewed by a board-certified pediatrician or registered nurse practitioner under the supervision of such pediatrician for the purpose of determining whether a face-to-face medical evaluation by a child protection team is necessary. Such face-to-face medical evaluation is not necessary only if it is determined that the child was examined by a physician for the alleged abuse or neglect, and a consultation between the child protection team board-certified pediatrician or nurse practitioner and the examining physician concludes that a further medical evaluation is unnecessary.~~

(4)(3) ~~In all instances in which a child protection team is providing certain services to abused, abandoned, or neglected children, other offices and units of the Department of Health, and offices and units of the Department~~

of Children and Family Services, shall avoid duplicating the provision of those services.

Section 10. Subsection (1) of section 39.304, Florida Statutes, 1998 Supplement, is amended to read:

39.304 Photographs, medical examinations, X rays, and medical treatment of abused, abandoned, or neglected child.—

(1)(a) Any person required to investigate cases of suspected child abuse, abandonment, or neglect may take or cause to be taken photographs of the areas of trauma visible on a child who is the subject of a report. Any child protection team that examines a child who is the subject of a report must take, or cause to be taken, photographs of any areas of trauma visible on the child. Such photographs, or duplicates thereof, shall be provided to the department for inclusion in the investigative file and shall become part of that file.

(b) If the areas of trauma visible on a child indicate a need for a medical examination, or if the child verbally complains or otherwise exhibits distress as a result of injury through suspected child abuse, abandonment, or neglect, or is alleged to have been sexually abused, the person required to investigate may cause the child to be referred for diagnosis to a licensed physician or an emergency department in a hospital without the consent of the child's parents, caregiver, or legal custodian. Such examination may be performed by an advanced registered nurse practitioner licensed pursuant to chapter 464. Any licensed physician, or advanced registered nurse practitioner licensed pursuant to chapter 464, who has reasonable cause to suspect that an injury was the result of child abuse, abandonment, or neglect may authorize a radiological examination to be performed on the child without the consent of the child's parent, caregiver, or legal custodian.

Section 11. Section 39.306, Florida Statutes, 1998 Supplement, is amended to read:

39.306 Child protective investigations; working agreements with local law enforcement.—The department shall enter into agreements with the jurisdictionally responsible county sheriffs' offices and local police departments that will assume the lead in conducting any potential criminal investigations arising from allegations of child abuse, abandonment, or neglect. The written agreement must specify how the requirements of this chapter will be met. For the purposes of such agreement, the jurisdictionally responsible law enforcement entity is authorized to share Florida criminal history and local criminal history information that is not otherwise exempt from s. 119.07(1) with the district personnel, authorized agent, or contract provider directly responsible for the child protective investigation and emergency child placement. The agencies entering into such agreement must comply with s. 943.0525. Criminal justice information provided by such law enforcement entity shall be used only for the purposes specified in the agreement and shall be provided at no charge. Notwithstanding any other provision of law, the Department of Law Enforcement shall provide to the department electronic access to Florida criminal justice information which is lawfully available and not exempt from s. 119.07(1), only for the purpose of child

protective investigations and emergency child placement. As a condition of access to such information, the department shall be required to execute an appropriate user agreement addressing the access, use, dissemination, and destruction of such information and to comply with all applicable laws and regulations, and rules of the Department of Law Enforcement.

Section 12. Subsection (8) of section 39.402, Florida Statutes, 1998 Supplement, is amended to read:

39.402 Placement in a shelter.—

(8)(a) A child may not be held in a shelter longer than 24 hours unless an order so directing is entered by the court after a shelter hearing. In the interval until the shelter hearing is held, the decision to place the child in a shelter or release the child from a shelter lies with the protective investigator.

(b) The parents or legal custodians of the child shall be given such notice as best ensures their actual knowledge of the time and place of the shelter hearing. The failure to provide notice to a party or participant does not invalidate an order placing a child in a shelter if the court finds that the petitioner has made a good faith effort to provide such notice. The court shall require the parents or legal custodians present at the hearing to provide to the court on the record the names, addresses, and relationships of all parents, prospective parents, and next of kin of the child, so far as are known.

(c) At the shelter hearing, the court shall:

1. Appoint a guardian ad litem to represent the child, unless the court finds that such representation is unnecessary;

2. Inform 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; and

3. Give the parents or legal custodians an opportunity to be heard and to present evidence.

(d) At the shelter hearing, in order to continue the child in shelter care:

1. The department must establish probable cause that reasonable grounds for removal exist and that the provision of appropriate and available services will not eliminate the need for placement; or-

2. The court must determine that additional time is necessary, which may not exceed 72 hours, in which to obtain and review documents pertaining to the family in order to appropriately determine the risk to the child during which time the child shall remain in the department's custody, if so ordered by the court.

(e) At the shelter hearing, the department shall provide the court copies of any available law enforcement, medical, or other professional reports, and

shall also provide copies of abuse hotline reports pursuant to state and federal confidentiality requirements.

(f) At the shelter hearing, the department shall inform the court of:

1. Any current or previous case plans negotiated in any district with the parents or caregivers under this chapter and problems associated with compliance;

2. Any adjudication of the parents or caregivers of delinquency;

3. Any past or current injunction for protection from domestic violence; and

4. All of the child's places of residence during the prior 12 months.

(g)(e) At the shelter hearing, each party shall provide to the court a permanent mailing address. The court shall advise each party that this address will be used by the court and the petitioner for notice purposes unless and until the party notifies the court and the petitioner in writing of a new mailing address.

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

1. That placement in shelter care is necessary based on the criteria in subsections (1) and (2).

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

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

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

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

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

b. The appraisal of the home situation by the department indicates that the home situation presents a substantial and immediate danger to the child's physical, mental, or emotional health or safety which cannot be mitigated by the provision of preventive services.

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

6. That the court notified the parents or legal custodians of the subsequent dependency proceedings, including scheduled hearings, and of the importance of the active participation of the parents or legal custodians in those subsequent proceedings and hearings.

7. 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.

Section 13. Section 383.402, Florida Statutes, is created to read:

383.402 Child abuse death review; State Child Abuse Death Review Committee; local child abuse death review committees.—

(1) It is the intent of the Legislature to establish a statewide multidisciplinary, multiagency child abuse death assessment and prevention system that consists of state and local review committees. The state and local review committees shall review the facts and circumstances of all deaths of children from birth through age 18 which occur in this state as the result of child abuse or neglect and for whom at least one report of abuse or neglect was accepted by the central abuse hotline within the Department of Children and Family Services. The purpose of the review shall be to:

(a) Achieve a greater understanding of the causes and contributing factors of deaths resulting from child abuse.

(b) Whenever possible, develop a communitywide approach to address such cases and contributing factors.

(c) Identify any gaps, deficiencies, or problems in the delivery of services to children and their families by public and private agencies which may be related to deaths that are the result of child abuse.

(d) Make and implement recommendations for changes in law, rules, and policies, as well as develop practice standards that support the safe and healthy development of children and reduce preventable child abuse deaths.

(2)(a) The State Child Abuse Death Review Committee is established within the Department of Health and shall consist of a representative of the Department of Health, appointed by the Secretary of Health, who shall serve as the state committee coordinator. The head of each of the following agencies or organizations shall also appoint a representative to the state committee:

1. The Department of Legal Affairs.

2. The Department of Children and Family Services.

3. The Department of Law Enforcement.
4. The Department of Education.
5. The Florida Prosecuting Attorneys Association, Inc.
6. The Florida Medical Examiners Commission, whose representative must be a forensic pathologist.

(b) In addition, the Secretary of Health shall appoint the following members to the state committee, based on recommendations from the Department of Health and the agencies listed in paragraph (a), and ensuring that the committee represents the regional, gender, and ethnic diversity of the state to the greatest extent possible:

1. A board-certified pediatrician.
2. A public health nurse.
3. A mental health professional who treats children or adolescents.
4. An employee of the Department of Children and Family Services who supervises family services counselors and who has at least 5 years of experience in child protective investigations.
5. The medical director of a child protection team.
6. A member of a child advocacy organization.
7. A social worker who has experience in working with victims and perpetrators of child abuse.
8. A person trained as a paraprofessional in patient resources who is employed in a child abuse prevention program.
9. A law enforcement officer who has at least 5 years of experience in children's issues.
10. A representative of the Florida Coalition Against Domestic Violence.
11. A representative from a private provider of programs on preventing child abuse and neglect.

(3) The State Child Abuse Death Review Committee shall:

(a) Develop a system for collecting data on deaths that are the result of child abuse. The system must include a protocol for the uniform collection of data statewide, which uses existing data-collection systems to the greatest extent possible.

(b) Provide training to cooperating agencies, individuals, and local child abuse death review committees on the use of the child abuse death data system.

(c) Prepare an annual statistical report on the incidence and causes of death resulting from child abuse in the state during the prior calendar year.

The state committee shall submit a copy of the report by September 30 of each year to the Governor, the President of the Senate, and the Speaker of the House of Representatives, with the first annual report due on September 30, 2000. The report must include recommendations for state and local action, including specific policy, procedural, regulatory, or statutory changes, and any other recommended preventive action.

(d) Encourage and assist in developing the local child abuse death review committees.

(e) Develop guidelines, standards, and protocols, including a protocol for data collection, for local child abuse death review committees, and provide training and technical assistance to local committees.

(f) Develop guidelines for reviewing deaths that are the result of child abuse, including guidelines to be used by law enforcement agencies, prosecutors, medical examiners, health care practitioners, health care facilities, and social service agencies.

(g) Study the adequacy of laws, rules, training, and services to determine what changes are needed to decrease the incidence of child abuse deaths and develop strategies and recruit partners to implement these changes.

(h) Provide consultation on individual cases to local committees upon request.

(i) Educate the public regarding the Kayla McKean Child Protection Act, the incidence and causes of child abuse death, and ways by which such deaths may be prevented.

(j) Promote continuing education for professionals who investigate, treat, and prevent child abuse or neglect.

(k) Recommend, when appropriate, the review of the death certificate of a child who died as a result of abuse or neglect.

(4) The members of the state committee shall be appointed to staggered terms of office which may not exceed 2 years, as determined by the Secretary of Health. Members are eligible for reappointment. The state committee shall elect a chairperson from among its members to serve for a 2-year term, and the chairperson may appoint ad hoc committees as necessary to carry out the duties of the committee.

(5) Members of the state committee shall serve without compensation but are entitled to reimbursement for per diem and travel expenses incurred in the performance of their duties as provided in s. 112.061 and to the extent that funds are available.

(6) At the direction of the Secretary of Health, the director of each county health department, or the directors of two or more county health departments by agreement, may convene and support a county or multicounty child abuse death review committee in accordance with the protocols established by the State Child Abuse Death Review Committee. Each local committee must include a local state attorney, or his or her designee, and any

other members that are determined by guidelines developed by the State Child Abuse Death Review Committee. The members of a local committee shall be appointed to 2-year terms and may be reappointed. The local committee shall elect a chairperson from among its members. Members shall serve without compensation but are entitled to reimbursement for per diem and travel expenses incurred in the performance of their duties as provided in s. 112.061 and to the extent that funds are available.

(7) Each local child abuse death review committee shall:

(a) Review all deaths resulting from child abuse which are reported to the Office of Vital Statistics.

(b) Assist the state committee in collecting data on deaths that are the result of child abuse, in accordance with the protocol established by the state committee.

(c) Submit written reports at the direction of the state committee. The reports must include nonidentifying information on individual cases and the steps taken by the local committee and private and public agencies to implement necessary changes and improve the coordination of services and reviews.

(d) Submit all records requested by the state committee at the conclusion of its review of a death resulting from child abuse.

(e) Abide by the standards and protocols developed by the state committee.

(f) On a case-by-case basis, request that the state committee review the data of a particular case.

(8) Notwithstanding any other law, the chairperson of the State Child Abuse Death Review Committee, or the chairperson of a local committee, shall be provided with access to any information or records that pertain to a child whose death is being reviewed by the committee and that are necessary for the committee to carry out its duties, including information or records that pertain to the child's family, as follows:

(a) Patient records in the possession of a public or private provider of medical, dental, or mental health care, including, but not limited to, a facility licensed under chapter 393, chapter 394, or chapter 395, or a health care practitioner as defined in s. 455.501. Providers may charge a fee for copies not to exceed 50 cents per page for paper records and \$1 per fiche for microfiche records.

(b) Information or records of any state agency or political subdivision which might assist a committee in reviewing a child's death, including, but not limited to, information or records of the Department of Children and Family Services, the Department of Health, the Department of Education, or the Department of Juvenile Justice.

(9) The State Child Abuse Death Review Committee or a local committee shall have access to all information of a law enforcement agency which is not

the subject of an active investigation and which pertains to the review of the death of a child. A committee may not disclose any information that is not subject to public disclosure by the law enforcement agency, and active criminal intelligence information or criminal investigative information, as defined in s. 119.011(3), may not be made available for review or access under this section.

(10) The state committee and any local committee may share any relevant information that pertains to the review of the death of a child.

(11) A member of the state committee or a local committee may not contact, interview, or obtain information by request or subpoena directly from a member of a deceased child's family as part of a committee's review of a child abuse death, except that if a committee member is also a public officer or state employee, that member may contact, interview, or obtain information from a member of the deceased child's family, if necessary, as part of the committee's review. A member of the deceased child's family may voluntarily provide records or information to the state committee or a local committee.

(12) The chairperson of the State Child Abuse Death Review Committee may require the production of records by requesting a subpoena, through the Department of Legal Affairs, in any county of the state. Such subpoena is effective throughout the state and may be served by any sheriff. Failure to obey the subpoena is punishable as provided by law.

(13) This section does not authorize the members of the state committee or any local committee to have access to any grand jury proceedings.

(14) A person who has attended a meeting of the state committee or a local committee or who has otherwise participated in activities authorized by this section may not be permitted or required to testify in any civil, criminal, or administrative proceeding as to any records or information produced or presented to a committee during meetings or other activities authorized by this section. However, this subsection does not prevent any person who testifies before the committee or who is a member of the committee from testifying as to matters otherwise within his or her knowledge. An organization, institution, committee member, or other person who furnishes information, data, reports, or records to the state committee or a local committee is not liable for damages to any person and is not subject to any other civil or criminal or administrative recourse. This subsection does not apply to any person who admits to committing a crime.

(15) The Department of Health shall administer the funds appropriated to operate the review committees and may apply for grants and accept donations.

(16) To the extent that funds are available, the Department of Health may hire staff or consultants to assist a review committee in performing its duties. Funds may also be used to reimburse reasonable expenses of the staff and consultants for the state committee and the local committees.

(17) For the purpose of carrying out the responsibilities assigned to the State Child Abuse Death Review Committee and the local review committees, the Secretary of Health may substitute an existing entity whose function and organization include the function and organization of the committees established by this section.

(18) Each district administrator of the Department of Children and Family Services must appoint a child abuse death review coordinator for the district. The coordinator must have knowledge and expertise in the area of child abuse and neglect. The coordinator's general responsibilities include:

(a) Coordinating with the local child abuse death review committee.

(b) Ensuring the appropriate implementation of the child abuse death review process and all district activities related to the review of child abuse deaths.

(c) Working with the committee to ensure that the reviews are thorough and that all issues are appropriately addressed.

(d) Maintaining a system of logging child abuse deaths covered by this procedure and tracking cases during the child abuse death review process.

(e) Conducting or arranging for a Florida Abuse Hotline Information System (FAHIS) record check on all child abuse deaths covered by this procedure to determine whether there were any prior reports concerning the child or concerning any siblings, other children, or adults in the home.

(f) Coordinating child abuse death review activities, as needed, with individuals in the community and the Department of Health.

(g) Notifying the district administrator, the Secretary of Children and Family Services, and the Deputy Secretary of Children's Medical Services Assistant Health Officer of all child abuse deaths meeting criteria for review as specified in this section within 1 working day after learning of the child's death.

(h) Ensuring that all critical issues identified by the local child abuse death review committee are brought to the attention of the district administrator and the Secretary of Children and Family Services.

(i) Providing technical assistance to the local child abuse death review committee during the review of any child abuse death.

Section 14. Present subsections (3), (4), (5), and (6) of section 409.1671, Florida Statutes, 1998 Supplement, are redesignated as subsections (4), (5), (6), and (7), respectively, and a new subsection (3) is added to that section, to read:

409.1671 Foster care and related services; privatization.—

(3)(a) In order to help ensure a seamless child protection system, the department shall ensure that contracts entered into with community-based

agencies pursuant to this section include provisions for a case-transfer process to determine the date that the community-based agency will initiate the appropriate services for a child and family. This case-transfer process must clearly identify the closure of the protective investigation and the initiation of service provision. At the point of case transfer, the department must provide a complete summary of the findings of the investigation to the community-based agency.

(b) The contracts must also ensure that each community-based agency shall furnish regular status reports of its cases to the department as specified in the contract. A provider may not discontinue services without prior written notification to the department. After discontinuing services to a child or a child and family, the community-based agency must provide a written case summary, including its assessment of the child and family, to the department.

(c) The annual contract between the department and community-based agencies must include provisions that specify the procedures to be used by the parties to resolve differences in interpreting the contract or to resolve disputes as to the adequacy of the parties' compliance with their respective obligations under the contract.

Section 15. Section 777.03, Florida Statutes, as amended by section 16 of chapter 97-194, Laws of Florida, is amended to read:

777.03 Accessory after the fact.—

(1)(a) Any person not standing in the relation of husband or wife, parent or grandparent, child or grandchild, brother or sister, by consanguinity or affinity to the offender, who maintains or assists the principal or accessory before the fact, or gives the offender any other aid, knowing that the offender had committed a felony or been accessory thereto before the fact, with intent that the offender avoids or escapes detection, arrest, trial or punishment, is an accessory after the fact.

(b) Any person, regardless of the relation to the offender, who maintains or assists the principal or accessory before the fact, or gives the offender any other aid, knowing that the offender had committed the offense of child abuse, neglect of a child, aggravated child abuse, aggravated manslaughter of a child under 18 years of age, or murder of a child under 18 years of age, or had been accessory thereto before the fact, with the intent that the offender avoids or escapes detection, arrest, trial, or punishment, is an accessory after the fact unless the court finds that the person is a victim of domestic violence.

(2)(a) If the felony offense committed is a capital felony, the offense of accessory after the fact is a felony of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(b) If the felony offense committed is a life felony or a felony of the first degree, the offense of accessory after the fact is a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(c) If the felony offense committed is a felony of the second degree or a felony of the third degree ranked in level 3, 4, 5, 6, 7, 8, 9, or 10 under s. 921.0022 or s. 921.0023, the offense of accessory after the fact is a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(d) If the felony offense committed is a felony of the third degree ranked in level 1 or level 2 under s. 921.0022 or s. 921.0023, the offense of accessory after the fact is a misdemeanor of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(3) Except as otherwise provided in s. 921.0022, for purposes of sentencing under chapter 921 and determining incentive gain-time eligibility under chapter 944, the offense of accessory after the fact is ranked two levels below the ranking under s. 921.0022 or s. 921.0023 of the felony offense committed.

Section 16. Subsection (2) of section 827.03, Florida Statutes, is amended to read:

827.03 Abuse, aggravated abuse, and neglect of a child; penalties.—

(2) “Aggravated child abuse” occurs when a person:

(a) Commits aggravated battery on a child;

(b) Willfully tortures, maliciously punishes, or willfully and unlawfully cages a child; or

(c) Knowingly or willfully abuses a child and in so doing causes great bodily harm, permanent disability, or permanent disfigurement to the child.

A person who commits aggravated child abuse commits a felony of the first second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 17. Paragraphs (h), (i), and (j) of subsection (3) of section 921.0022, Florida Statutes, 1998 Supplement, are amended to read:

921.0022 Criminal Punishment Code; offense severity ranking chart.—

(3) OFFENSE SEVERITY RANKING CHART

Florida Statute	Felony Degree	Description
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(h) LEVEL 8

316.193

(3)(c)3.a.

2nd

DUI manslaughter.

327.35(3)(c)3.

2nd

Vessel BUI manslaughter.

777.03(2)(a)

1st

Accessory after the fact, capital felony.

Florida Statute	Felony Degree	Description
782.04(4)	2nd	Killing of human without design when engaged in act or attempt of any felony other than arson, sexual battery, robbery, burglary, kidnapping, aircraft piracy, or unlawfully discharging bomb.
782.051(2)	1st	Attempted felony murder while perpetrating or attempting to perpetrate a felony not enumerated in s. 782.04(3).
782.071(2)	2nd	Committing vehicular homicide and failing to render aid or give information.
782.072(2)	2nd	Committing vessel homicide and failing to render aid or give information.
790.161(3)	1st	Discharging a destructive device which results in bodily harm or property damage.
794.011(5)	2nd	Sexual battery, victim 12 years or over, offender does not use physical force likely to cause serious injury.
806.01(1)	1st	Maliciously damage dwelling or structure by fire or explosive, believing person in structure.
810.02(2)(a)	1st,PBL	Burglary with assault or battery.
810.02(2)(b)	1st,PBL	Burglary; armed with explosives or dangerous weapon.
810.02(2)(c)	1st	Burglary of a dwelling or structure causing structural damage or \$1,000 or more property damage.
812.13(2)(b)	1st	Robbery with a weapon.
812.135(2)	1st	Home-invasion robbery.
825.102(2)	2nd	Aggravated abuse of an elderly person or disabled adult.
825.103(2)(a)	1st	Exploiting an elderly person or disabled adult and property is valued at \$100,000 or more.
<del>827.03(2)</del>	<del>2nd</del>	<del>Aggravated child abuse.</del>
837.02(2)	2nd	Perjury in official proceedings relating to prosecution of a capital felony.
837.021(2)	2nd	Making contradictory statements in official proceedings relating to prosecution of a capital felony.
860.121(2)(c)	1st	Shooting at or throwing any object in path of railroad vehicle resulting in great bodily harm.

Florida Statute	Felony Degree	Description
860.16	1st	Aircraft piracy.
893.13(1)(b)	1st	Sell or deliver in excess of 10 grams of any substance specified in s. 893.03(1)(a) or (b).
893.13(2)(b)	1st	Purchase in excess of 10 grams of any substance specified in s. 893.03(1)(a) or (b).
893.13(6)(c)	1st	Possess in excess of 10 grams of any substance specified in s. 893.03(1)(a) or (b).
893.135(1)(a)2.	1st	Trafficking in cannabis, more than 2,000 lbs., less than 10,000 lbs.
893.135 (1)(b)1.b.	1st	Trafficking in cocaine, more than 200 grams, less than 400 grams.
893.135 (1)(c)1.b.	1st	Trafficking in illegal drugs, more than 14 grams, less than 28 grams.
893.135 (1)(d)1.b.	1st	Trafficking in phencyclidine, more than 200 grams, less than 400 grams.
893.135 (1)(e)1.b.	1st	Trafficking in methaqualone, more than 5 kilograms, less than 25 kilograms.
893.135 (1)(f)1.b.	1st	Trafficking in amphetamine, more than 28 grams, less than 200 grams.
893.135 (1)(g)1.b.	1st	Trafficking in flunitrazepam, 14 grams or more, less than 28 grams.
895.03(1)	1st	Use or invest proceeds derived from pattern of racketeering activity.
895.03(2)	1st	Acquire or maintain through racketeering activity any interest in or control of any enterprise or real property.
895.03(3)	1st	Conduct or participate in any enterprise through pattern of racketeering activity.  (i) LEVEL 9
316.193 (3)(c)3.b.	1st	DUI manslaughter; failing to render aid or give information.
782.04(1)	1st	Attempt, conspire, or solicit to commit premeditated murder.

Florida Statute	Felony Degree	Description
782.04(3)	1st,PBL	Accomplice to murder in connection with arson, sexual battery, robbery, burglary, and other specified felonies.
782.051(1)	1st	Attempted felony murder while perpetrating or attempting to perpetrate a felony enumerated in s. 782.04(3).
782.07(2)	1st	Aggravated manslaughter of an elderly person or disabled adult.
<del>782.07(3)</del>	<del>1st</del>	<del>Aggravated manslaughter of a child.</del>
787.01(1)(a)1.	1st,PBL	Kidnapping; hold for ransom or reward or as a shield or hostage.
787.01(1)(a)2.	1st,PBL	Kidnapping with intent to commit or facilitate commission of any felony.
787.01(1)(a)4.	1st,PBL	Kidnapping with intent to interfere with performance of any governmental or political function.
787.02(3)(a)	1st	False imprisonment; child under age 13; perpetrator also commits child abuse, sexual battery, lewd, or lascivious act, etc.
790.161	1st	Attempted capital destructive device offense.
794.011(2)	1st	Attempted sexual battery; victim less than 12 years of age.
794.011(2)	Life	Sexual battery; offender younger than 18 years and commits sexual battery on a person less than 12 years.
794.011(4)	1st	Sexual battery; victim 12 years or older, certain circumstances.
794.011(8)(b)	1st	Sexual battery; engage in sexual conduct with minor 12 to 18 years by person in familial or custodial authority.
812.13(2)(a)	1st,PBL	Robbery with firearm or other deadly weapon.
812.133(2)(a)	1st,PBL	Carjacking; firearm or other deadly weapon.
<u>827.03(2)</u>	<u>1st</u>	<u>Aggravated child abuse.</u>
847.0145(1)	1st	Selling, or otherwise transferring custody or control, of a minor.
847.0145(2)	1st	Purchasing, or otherwise obtaining custody or control, of a minor.
859.01	1st	Poisoning food, drink, medicine, or water with intent to kill or injure another person.

Florida Statute	Felony Degree	Description
893.135	1st	Attempted capital trafficking offense.
893.135(1)(a)3.	1st	Trafficking in cannabis, more than 10,000 lbs.
893.135 (1)(b)1.c.	1st	Trafficking in cocaine, more than 400 grams, less than 150 kilograms.
893.135 (1)(c)1.c.	1st	Trafficking in illegal drugs, more than 28 grams, less than 30 kilograms.
893.135 (1)(d)1.c.	1st	Trafficking in phencyclidine, more than 400 grams.
893.135 (1)(e)1.c.	1st	Trafficking in methaqualone, more than 25 kilograms.
893.135 (1)(f)1.c.	1st	Trafficking in amphetamine, more than 200 grams.
		(j) LEVEL 10
782.04(2)	1st,PBL	Unlawful killing of human; act is homicide, unpremeditated.
787.01(1)(a)3.	1st,PBL	Kidnapping; inflict bodily harm upon or terrorize victim.
787.01(3)(a)	Life	Kidnapping; child under age 13, perpetrator also commits child abuse, sexual battery, lewd, or lascivious act, etc.
782.07(3) 794.011(3)	1st Life	<u>Aggravated manslaughter of a child.</u> Sexual battery; victim 12 years or older, offender uses or threatens to use deadly weapon or physical force to cause serious injury.
876.32	1st	Treason against the state.

Section 18. Paragraph (g) of subsection (2) of section 934.03, Florida Statutes, is amended to read:

934.03 Interception and disclosure of wire, oral, or electronic communications prohibited.—

(2)

(g) It is lawful under ss. 934.03-934.09 for an employee of:

1. An ambulance service licensed pursuant to s. 401.25, a fire station employing firefighters as defined by s. 633.30, a public utility as defined by

ss. 365.01 and 366.02, a law enforcement agency as defined by s. 934.02(10), or any other entity with published emergency telephone numbers; ~~or~~

2. An agency operating an emergency telephone number "911" system established pursuant to s. 365.171; ~~or,~~

3. The central abuse hotline operated pursuant to s. 39.201,

to intercept and record incoming wire communications; however, such employee may intercept and record incoming wire communications on published emergency telephone numbers only. It is also lawful for such employee to intercept and record outgoing wire communications to the numbers from which such incoming wire communications were placed when necessary to obtain information required to provide the emergency services being requested.

Section 19. Section 39.823, Florida Statutes, 1998 Supplement, is amended to read:

39.823 Guardian advocates for drug dependent newborns.—The Legislature finds that increasing numbers of drug dependent children are born in this state. Because of the parents' continued dependence upon drugs, the parents may temporarily leave their child with a relative or other adult or may have agreed to voluntary family services under s. 39.301(12) ~~s. 39.301(8)~~. The relative or other adult may be left with a child who is likely to require medical treatment but for whom they are unable to obtain medical treatment. The purpose of this section is to provide an expeditious method for such relatives or other responsible adults to obtain a court order which allows them to provide consent for medical treatment and otherwise advocate for the needs of the child and to provide court review of such authorization.

Section 20. The Department of Health, in consultation with the Department of Children and Family Services and the Florida Association of Counties, shall develop a plan for submission to the Legislature describing the resources that are necessary to provide adequate support for child protection teams in each county. The plan must specify those resources that should be provided by the state and those that should be provided by the county. The Department of Health shall submit the plan to the President of the Senate and the Speaker of the House of Representatives by October 1, 1999.

Section 21. The Department of Children and Family Services shall contract with an independent entity for the purpose of evaluating the central abuse hotline within the department to determine its effectiveness and efficiency in performing its statutory responsibilities pursuant to chapter 39, Florida Statutes. This evaluation must include, but need not be limited to, the criteria and the application of criteria by which calls are accepted or denied. This evaluation must also address the need to monitor the central abuse hotline on an ongoing basis and, if recommended, must propose the monitoring process.

Section 22. There is appropriated to the Department of Children and Family Services 8 full-time-equivalent positions and \$216,931 from recur-

ring General Revenue Funds, \$457,896 from nonrecurring General Revenue Funds, and \$155,764 from the Federal Grants Trust Fund to implement sections 4 and 21 of this act. There is appropriated to the Department of Health 3 full-time-equivalent positions and \$2,413,234 from recurring General Revenue Funds and \$435,862 from nonrecurring General Revenue Funds to implement sections 9 and 13 of this act.

Section 23. The Office of Program Policy Analysis and Government Accountability is directed to analyze and report on all cases for which an administrative review is conducted under section 39.301(12)(c), Florida Statutes, and the Department of Children and Family Services does not take the child into custody or file a petition under chapter 39, Florida Statutes. The analysis shall include, at a minimum, an assessment of the characteristics of these children as compared to children who are taken into custody or for whom a petition is filed under section 39.301(12)(c), Florida Statutes, as a result of the administrative review and an assessment of each child's outcome in terms of whether any reports of known or suspected abuse, neglect, or abandonment are received. The analysis of this and any other data identified and collected by the Office of Program Policy Analysis and Government Accountability is to be compiled quarterly and submitted to the President of the Senate and the Speaker of the House of Representatives by January 1, 2000, and January 1, 2001. The Office of Program Policy Analysis and Government Accountability and the Department of Children and Family Services shall work cooperatively to develop a research and data-collection design necessary to implement the requirements of this section.

Section 24. This act shall take effect July 1, 1999.

Approved by the Governor May 14, 1999.

Filed in Office Secretary of State May 14, 1999.