

Committee Substitute for
Committee Substitute for House Bill No. 855

An act relating to child welfare; amending s. 39.201, F.S.; revising confidentiality of recorded central abuse hotline calls relating to child abuse, neglect, or abandonment; providing clarifying language for community-based care providers of foster care and related services; providing circumstances in which an officer or employee of the judicial branch is not required to report child abuse, abandonment, or neglect; amending s. 39.202, F.S.; providing for the inclusion of the child protection team in the list of those to whom an alleged abuse reporter's name may be released; amending s. 39.205, F.S.; exempting judges from prosecution for failure to report; amending s. 39.301, F.S.; clarifying language relating to initiation of protective investigations and criminal investigations; clarifying that the age of parents shall be factored into risk assessments; changing certain time requirements; amending s. 39.303, F.S.; specifying additional supportive services to be provided by child protection teams; requiring certain training for medical personnel participating in a child protection team; revising reports of abuse, abandonment, or neglect that must be referred to the Department of Health for supportive services; revising requirements relating to review of certain cases of abuse, abandonment, or neglect and standards for face-to-face medical evaluations by a child protection team; requiring collaboration between certain state agencies relating to reports of child abuse, abandonment, and neglect; amending s. 39.304, F.S.; providing for disposition of investigative photographs of physical abuse injuries and sexual abuse trauma; amending s. 39.402, F.S.; clarifying that the court must be informed of identified case plans at shelter hearings; amending s. 383.402, F.S.; deleting a reference to the Kayla McKean Child Protection Act; revising duties of the local child abuse death review committee and district coordinators; amending s. 409.145, F.S.; authorizing the Department of Children and Family Services to provide additional assistance for certain individuals leaving foster care; amending s. 409.1671, F.S.; prescribing times when summaries of investigations must be provided to the community-based agency; amending s. 409.175, F.S.; requiring a plan for streamlining foster parent training; creating s. 409.1753, F.S.; specifying duties of the Department of Children and Family Services or its agents regarding foster care; repealing s. 1, ch. 99-168, Laws of Florida, which provides a short title naming the Act the Kayla McKean Child Protection Act; providing an effective date.

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

Section 1. Paragraph (g) of subsection (2) and subsections (7), (8), and (9) of section 39.201, Florida Statutes, are amended to read:

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

(2)

(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, notwithstanding s. 39.202, shall be released in full only to law enforcement agencies and state attorneys for the purpose of investigating and prosecuting criminal charges pursuant to s. 39.205, or to employees of the department for the purpose of investigating and seeking administrative penalties pursuant to s. 39.206 ~~is subject to the same confidentiality as is provided to the identity of the caller under s. 39.202.~~ Nothing in this paragraph shall prohibit the use of the recordings by hotline staff for quality assurance and training.

(7)(a) This section does not require a professional who is hired by or enters into a contract with the department for the purpose of treating or counseling any person, as a result of a report of child abuse, abandonment, or neglect, to again report to the central abuse hotline the abuse, abandonment, or neglect that was the subject of the referral for treatment.

(b) This section does not require an officer or employee of the judicial branch to again provide notice of reasonable cause to suspect child abuse, abandonment, or neglect when that child is currently being investigated by the department, there is an existing dependency case, or the matter has previously been reported to the department, provided there is reasonable cause to believe the information is already known to the department. This paragraph applies only when the information has been provided to the officer or employee in the course of official duties.

(8) Nothing in this chapter or in the contracting with community-based care providers for 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 community-based care 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 calls reports ~~to the hotline~~ involving three or more unaccepted reports on a single child, where jurisdiction applies, 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 2. Subsection (4) of section 39.202, Florida Statutes, 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 depart-

ment responsible for child protective services, the central abuse hotline, law enforcement, the child protection team, 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 3. Subsection (1) of section 39.205, Florida Statutes, 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 degree, punishable as provided in s. 775.082 or s. 775.083. A judge subject to discipline pursuant to s. 12, Art. V of the Florida Constitution shall not be subject to criminal prosecution when the information was received in the course of official duties.

Section 4. Subsection (2), paragraph (b) of subsection (8), paragraph (c) of subsection (12), and subsections (14), (17), and (18) of section 39.301, Florida Statutes, are amended to read:

39.301 Initiation of protective investigations.—

(2)(a) ~~The department Upon notification by the department's central abuse hotline under subsection (1), the designated child protective investigator shall immediately forward allegations of criminal conduct to the municipal or county notify the appropriate law enforcement agency of the municipality or county in which the alleged conduct has known or suspected child abuse, abandonment, or neglect is believed to have occurred.~~

(b) As used in this subsection, the term "criminal conduct" means:

1. A child is known or suspected to be the victim of child abuse, as defined in s. 827.03, or of neglect of a child, as defined in s. 827.03.

2. A child is known or suspected to have died as a result of abuse or neglect.

3. A child is known or suspected to be the victim of aggravated child abuse, as defined in s. 827.03.

4. A child is known or suspected to be the victim of sexual battery, as defined in s. 827.071, or of sexual abuse, as defined in s. 39.01.

5. A child is known or suspected to be the victim of institutional child abuse or neglect, as defined in s. 39.01, and as provided for in s. 39.302(1).

(c) Upon receiving a written report of an allegation of criminal conduct from the department receipt of a report, the law enforcement agency shall must review the information in the written report to and determine whether a criminal investigation of the case is warranted, and, If the law enforcement agency accepts the case for so, shall conduct the criminal investigation that shall be coordinated, it shall coordinate its investigative activities with the department, whenever feasible possible, with the child protective investigation of the department or its agent. If the law enforcement agency does not accept the case for criminal investigation, the agency shall notify the department in writing.

(d) The local law enforcement agreement required in s. 39.306 shall describe the specific local protocols for implementing this section.

(8) The person responsible for the investigation shall make a preliminary determination as to whether the report 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 is incomplete, he or she shall return it without delay to the person or agency originating the report 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; however, the confidentiality of any report filed in accordance with this chapter shall not be violated.

(b) If it is determined that the child is in need of the protection and supervision of the court, the department shall file a petition for dependency. A petition for dependency shall be filed in all cases classified by the department as high-risk. Factors that the department may consider in determining whether a case is high-risk include, but are not limited to, the young age of the cases, including, but not limited to, cases involving parents or legal custodians of a young age, the use of illegal drugs, or domestic violence.

(12)

(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 for criminal investigation 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 team's evaluation 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.

(14) No later than 60 ~~30~~ days after receiving the initial report, the local office of the department shall complete its investigation.

(17) When a law enforcement agency conducts a criminal investigation into allegations of child abuse, neglect, or abandonment, photographs documenting the abuse or neglect will be taken when appropriate 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) Within 15 days after the case is completion of the investigation of ~~cases reported to him or her pursuant to this chapter,~~ 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.

Section 5. Section 39.303, Florida Statutes, is amended to read:

39.303 Child protection teams; services; eligible cases.—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 ~~director of~~ 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.

(j) Child protection team assessments that include, as appropriate, medical evaluations, medical consultations, family psychosocial interviews, specialized clinical interviews, or forensic interviews.

All medical personnel participating on a child protection team must successfully complete the required child protection team training curriculum as set forth in protocols determined by the Deputy Secretary for Children's Medical Services and the Statewide Medical Director for Child Protection.

(2) The child abuse, abandonment, and neglect reports that must be referred by the Department of Children and Family Services to child protec-

tion teams of the Department of Health for an assessment medical evaluation and other appropriate available support services as set forth in subsection (1) must include cases involving:

(a) Injuries to the head, bruises to the neck or head, burns, or fractures in a child of any age.

(b) Bruises anywhere on a child 5 years of age or under.

(c)(b) 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.

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

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

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

(g)(f) 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.

(h)(g) 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. For the purpose of determining whether face-to-face medical evaluation by a child protection team is necessary, 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.

(a) A physician licensed under chapter 458 or chapter 459 who holds board certification in pediatrics and is a member of a child protection team;

(b) A physician licensed under chapter 458 or chapter 459 who holds board certification in a specialty other than pediatrics, who may complete the review only when working under the direction of a physician licensed under chapter 458 or chapter 459 who holds board certification in pediatrics and is a member of a child protection team;

(c) An advanced registered nurse practitioner licensed under chapter 464 who has a speciality in pediatrics or family medicine and is a member of a child protection team;

(d) A physician assistant licensed under chapter 458 or chapter 459, who may complete the review only when working under the supervision of a

physician licensed under chapter 458 or chapter 459 who holds board certification in pediatrics and is a member of a child protection team; or

(e) A registered nurse licensed under chapter 464, who may complete the review only when working under the direct supervision of a physician licensed under chapter 458 or chapter 459 who holds certification in pediatrics and is a member of a child protection team.

(4) A Such face-to-face medical evaluation by a child protection team is not necessary when: only if it is determined that

(a) The child was examined by a physician for the alleged abuse or neglect by a physician who is not a member of the child protection team, and a consultation between the child protection team board-certified pediatrician, advanced registered or nurse practitioner, physician assistant working under the supervision of a child protection team board-certified pediatrician, or registered nurse working under the direct supervision of a child protection team board-certified pediatrician, and the examining physician concludes that a further medical evaluation is unnecessary;

(b) The child protective investigator, with supervisory approval, has determined, after conducting a child safety assessment, that there are no indications of injuries as described in paragraphs (2)(a)-(h) as reported; or

(c) The child protection team board-certified pediatrician, as authorized in subsection (3), determines that a medical evaluation is not required.

Notwithstanding paragraphs (a), (b), and (c), a child protection team pediatrician, as authorized in subsection (3), may determine that a face-to-face medical evaluation is necessary.

(5)(4) 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.

(6) The Department of Health child protection team quality assurance program and the Department of Children and Family Services' Family Safety Program Office quality assurance program shall collaborate to ensure referrals and responses to child abuse, abandonment, and neglect reports are appropriate. Each quality assurance program shall include a review of records in which there are no findings of abuse, abandonment, or neglect and the findings of these reviews shall be included in each department's quality assurance reports.

Section 6. Subsection (1) of section 39.304, Florida Statutes, 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 of physical abuse injuries, or duplicates thereof, shall be provided to the department for inclusion in the investigative file and shall become part of that file. Photographs of sexual abuse trauma shall be made part of the child protection team medical record.

(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 or legal custodian. Such examination may be performed by any licensed physician or 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 or legal custodian.

Section 7. Paragraph (f) of subsection (8) of section 39.402, Florida Statutes, is amended to read:

39.402 Placement in a shelter.—

(8)

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

1. Any identified 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.

Section 8. Paragraph (i) of subsection (3), subsection (7), and paragraph (g) of subsection (18) of section 383.402, Florida Statutes, are amended to read:

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

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

(i) Educate the public regarding the provisions of chapter 99-168, Laws of Florida ~~Kayla McKean Child Protection Act~~, the incidence and causes of child abuse death, and ways by which such deaths may be prevented.

(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.~~

~~(a)(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.

~~(b)(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.

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

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

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

(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:

(g) Notifying the district administrator, the Secretary of Children and Family Services, ~~and the Deputy Secretary for of Children's Medical Services, and the Department of Health Child Abuse Death Review Coordinator Assistant Health Officer~~ of all child abuse deaths meeting criteria for review as specified in this section within 1 working day after verifying the child's death was due to abuse, neglect, or abandonment learning of the child's death.

Section 9. Paragraph (b) of subsection (3) of section 409.145, Florida Statutes, is amended to read:

409.145 Care of children.—

(3)

(b) The services of the foster care program shall continue for those individuals 18 to 21 years of age only for the period of time the individual is continuously enrolled in high school, in a program leading to a high school equivalency diploma as defined in s. 229.814, or in a full-time career education program. Services shall be terminated upon completion of or withdrawal or permanent expulsion from high school, the program leading to a high school equivalency diploma, or the full-time career education program. In addition, the department may, based upon the availability of funds, provide assistance to those individuals who leave foster care when they attain 18 years of age and subsequently request assistance prior to their

21st birthday. The following are examples of assistance that may be provided: referrals for employment, services for educational or vocational development, and housing assistance.

Section 10. Subsection (3) of section 409.1671, Florida Statutes, is amended 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, and at the conclusion of an investigation, 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 11. Present paragraph (c) of subsection (13) of section 409.175, Florida Statutes, is redesignated as paragraph (d) and a new paragraph (c) is added to that section to read:

409.175 Licensure of family foster homes, residential child-caring agencies, and child-placing agencies.—

(13)

(c) In consultation with foster parents, each district or lead agency shall develop a plan for making the completion of the required training as convenient as possible for potential foster parents and emergency-shelter parents. The plan should include, without limitation, such strategies as providing training in nontraditional locations and at nontraditional times. The plan must be revised at least annually and must be included in the information provided to each person applying to become a foster parent or emergency-shelter parent.

Section 12. Section 409.1753, Florida Statutes, is created to read:

409.1753 Foster care; duties.—The department shall ensure that, within each district, each foster home is given a telephone number for the foster parent to call during normal working hours whenever immediate assistance is needed and the child’s caseworker is unavailable. This number must be staffed and answered by individuals possessing the knowledge and authority necessary to assist foster parents.

Section 13. Section 1 of chapter 99-168, Laws of Florida, is repealed.

Section 14. This act shall take effect upon becoming a law.

Approved by the Governor June 5, 2000.

Filed in Office Secretary of State June 5, 2000.