

## Committee Substitute for Senate Bill No. 1646

An act relating to protection of children; amending s. 20.19, F.S.; deleting reference to child protection and sexual abuse treatment teams from responsibilities of the Children and Families Program Office of the Department of Children and Family Services; transferring all powers and duties relating to the child protection teams and the sexual abuse treatment program to the Department of Health, Division of Children's Medical Services; providing the Department of Health with certain authority with respect to transferred positions; amending s. 20.43, F.S.; providing responsibility of the Department of Health to provide services to abused and neglected children through the teams and program; amending ss. 39.4031, 39.4032, and 39.408, F.S., relating to children and family case plan requirements and case staffing, and hearings for dependency cases; providing for coordination with the child protection teams of the Department of Health; amending ss. 119.07, 415.50175, and 415.51, F.S.; providing confidentiality under existing public records exemptions for records of child protection teams and personnel thereof; amending ss. 415.50171, 415.5018, 415.503, 415.5055, and 415.5095, F.S.; clarifying respective responsibilities of the Department of Health and the Department of Children and Family Services, relating to child abuse and neglect cases, policy, and procedures, to child protection teams, and to child sexual abuse cases, pursuant to the transfer of responsibilities under the act; providing duties of the Division of Children's Medical Services; deleting requirements that child protection teams be capable of providing short-term psychological treatment; amending s. 415.501, F.S.; revising participants in the state plan for prevention of child abuse and neglect; creating s. 415.515, F.S.; authorizing rulemaking by the Department of Health; repealing s. 415.5075, F.S., relating to rulemaking; requiring a memorandum of agreement between the Department of Children and Family Services and the Department of Health; providing an effective date.

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

Section 1. Paragraph (b) of subsection (4) of section 20.19, Florida Statutes, is amended to read:

20.19 Department of Children and Family Services.—There is created a Department of Children and Family Services.

(4) PROGRAM OFFICES.—

(b) The following program offices are established and may be consolidated, restructured, or rearranged by the secretary; provided any such consolidation, restructuring, or rearranging is for the purpose of encouraging service integration through more effective and efficient performance of the program offices or parts thereof:

1. Economic Self-Sufficiency Program Office.—The responsibilities of this office encompass income support programs within the department, such as temporary assistance to families with dependent children, food stamps, welfare reform, and state supplementation of the supplemental security income (SSI) program.

2. Developmental Services Program Office.—The responsibilities of this office encompass programs operated by the department for developmentally disabled persons. Developmental disabilities include any disability defined in s. 393.063.

3. Children and Families Program Office.—The responsibilities of this program office encompass early intervention services for children and families at risk; intake services for protective investigation of abandoned, abused, and neglected children; interstate compact on the placement of children programs; adoption; child care; out-of-home care programs and other specialized services to families; and ~~child protection and sexual abuse treatment teams created under chapter 415, excluding medical direction functions.~~

4. Alcohol, Drug Abuse, and Mental Health Program Office.—The responsibilities of this office encompass all alcohol, drug abuse, and mental health programs operated by the department.

Section 2. All powers, duties, functions, records, personnel, property, and unexpended balances of appropriations, allocations, and other funds of the Department of Children and Family Services relating to services to abused and neglected children provided through the child protection teams and sexual abuse treatment program created under part IV of chapter 415, Florida Statutes, are transferred to the Department of Health, Division of Children's Medical Services, by a type two transfer as defined in s. 20.06, Florida Statutes. The Department of Health may organize, classify, and manage the positions transferred in a manner that will reduce duplication, achieve maximum efficiency, and ensure accountability.

Section 3. Paragraph (h) of subsection (1) of section 20.43, Florida Statutes, is amended to read:

20.43 Department of Health.—There is created a Department of Health.

(1) The purpose of the Department of Health is to promote and protect the health of all residents and visitors in the state through organized state and community efforts, including cooperative agreements with counties. The department shall:

(h) Provide services to abused and neglected children through child protection teams and sexual abuse treatment programs. Provide medical direction for child protection team and sexual abuse treatment functions created under chapter 415.

Section 4. Paragraph (j) of subsection (4) of section 39.4031, Florida Statutes, is amended to read:

39.4031 Case plan requirements.—

(4) When the child is receiving services in a placement outside the child's home or in foster care, the case plan must be prepared within 30 days after placement and also be approved by the court and must include, in addition to the requirements in subsections (2) and (3), at a minimum:

(j) A written notice to the parent that failure of the parent to substantially comply with the case plan may result in the termination of parental rights, and that a material failure to substantially comply may result in the filing of a petition for termination of parental rights sooner than the compliance periods set forth in the case plan itself. ~~The child protection team shall coordinate its effort with the case staffing committee~~ shall coordinate its efforts with the child protection team of the Department of Health.

Section 5. Paragraph (4) of section 39.4032, Florida Statutes, is amended to read:

39.4032 Multidisciplinary case staffing.—

(4) The case staffing committee shall coordinate its effort with the child protection team of the Department of Health.

Section 6. Paragraph (a) of subsection (3) of section 39.408, Florida Statutes, is amended to read:

39.408 Hearings for dependency cases.—

(3) DISPOSITION HEARING.—At the disposition hearing, if the court finds that the facts alleged in the petition for dependency were proven in the adjudicatory hearing, or if the parents have consented to the finding of dependency or admitted the allegations in the petition, have failed to appear for the arraignment hearing after proper notice, or have not been located despite a diligent search having been conducted, the court shall receive and consider a predisposition study, which must be in writing and presented by an authorized agent of the department.

(a) The predisposition study shall cover for any dependent child all factors specified in s. 61.13(3), and must also provide the court with the following documented information:

1. An assessment defining the dangers and risks of returning the child home, including a description of the changes in and resolutions to the initial risks.

2. A description of what risks are still present and what resources are available and will be provided for the protection and safety of the child.

3. A description of the benefits of returning the child home.

4. A description of all unresolved issues.

5. An abuse registry history for all caretakers, family members, and individuals residing within the household.

6. The complete ~~child protection team~~ report and recommendation of the child protection team of the Department of Health or, if no report exists, a statement reflecting that no report has been made.

7. All opinions or recommendations from other professionals or agencies that provide evaluative, social, reunification, or other services to the family.

8. The availability of appropriate prevention and reunification services for the family to prevent the removal of the child from the home or to reunify the child with the family after removal, including the availability of family preservation services through the Family Builders Program, the Intensive Crisis Counseling Program, or both.

9. The inappropriateness of other prevention and reunification services that were available.

10. The efforts by the department to prevent out-of-home placement of the child or, when applicable, to reunify the family if appropriate services were available, including the application of intensive family preservation services through the Family Builders Program, the Intensive Crisis Counseling Program, or both.

11. Whether the services were provided to the family and child.

12. If the services were provided, whether they were sufficient to meet the needs of the child and the family and to enable the child to remain at home or to be returned home.

13. If the services were not provided, the reasons for such lack of action.

14. The need for, or appropriateness of, continuing the services if the child remains in the custody of the family or if the child is placed outside the home.

15. Whether family mediation was provided.

16. Whether a multidisciplinary case staffing was conducted and, if so, the results.

17. If the child has been removed from the home and there is a parent who may be considered for custody pursuant to s. 39.41(1), a recommendation as to whether placement of the child with that parent would be detrimental to the child.

Section 7. Paragraph (i) of subsection (3) of section 119.07, Florida Statutes, is amended to read:

119.07 Inspection, examination, and duplication of records; exemptions.—

(3)

(i)1. The home addresses, telephone numbers, social security numbers, and photographs of active or former law enforcement personnel, including

correctional and correctional probation officers, personnel of the Department of ~~Children and Family Health and Rehabilitative Services~~ whose duties include the investigation of abuse, neglect, exploitation, fraud, theft, or other criminal activities, personnel of the Department of Health whose duties are to support the investigation of child abuse or neglect, and personnel of the Department of Revenue or local governments whose responsibilities include revenue collection and enforcement or child support enforcement; the home addresses, telephone numbers, social security numbers, photographs, and places of employment of the spouses and children of such personnel; and the names and locations of schools and day care facilities attended by the children of such personnel are exempt from the provisions of subsection (1). The home addresses, telephone numbers, and photographs of firefighters certified in compliance with s. 633.35; the home addresses, telephone numbers, photographs, and places of employment of the spouses and children of such firefighters; and the names and locations of schools and day care facilities attended by the children of such firefighters are exempt from subsection (1). The home addresses and telephone numbers of justices of the Supreme Court, district court of appeal judges, circuit court judges, and county court judges; the home addresses, telephone numbers, and places of employment of the spouses and children of justices and judges; and the names and locations of schools and day care facilities attended by the children of justices and judges are exempt from the provisions of subsection (1). The home addresses, telephone numbers, social security numbers, and photographs of current or former state attorneys, assistant state attorneys, statewide prosecutors, or assistant statewide prosecutors; the home addresses, telephone numbers, social security numbers, photographs, and places of employment of the spouses and children of current or former state attorneys, assistant state attorneys, statewide prosecutors, or assistant statewide prosecutors; and the names and locations of schools and day care facilities attended by the children of current or former state attorneys, assistant state attorneys, statewide prosecutors, or assistant statewide prosecutors are exempt from subsection (1) and s. 24(a), Art. I of the State Constitution. The home addresses and home telephone numbers of county and municipal code inspectors and code enforcement officers are confidential and exempt from the provisions of subsection (1) and s. 24(a), Art. I of the State Constitution.

2. An agency that is the custodian of the personal information specified in subparagraph 1. and that is not the employer of the officer, employee, justice, judge, or other person specified in subparagraph 1. shall maintain the confidentiality of the personal information only if the officer, employee, justice, judge, other person, or employing agency of the designated employee submits a written request for confidentiality to the custodial agency.

Section 8. Subsection (3) of section 415.501, Florida Statutes, is amended to read:

415.501 Prevention of abuse and neglect of children; state plan.—

(3) FUNDING AND SUBSEQUENT PLANS.—

(a) All budget requests submitted by the Department of Health, the Department of Children and Family Services, the Department of Education, or

any other agency to the Legislature for funding of efforts for the prevention of child abuse and neglect shall be based on the state plan developed pursuant to this section.

(b) The Department of Children and Family Services at the state and district levels and the other agencies listed in paragraph (2)(a) shall readress the plan and make necessary revisions every 5 years, at a minimum. Such revisions shall be submitted to the Speaker of the House of Representatives and the President of the Senate no later than June 30 of each year divisible by 5. An annual progress report shall be submitted to update the plan in the years between the 5-year intervals. In order to avoid duplication of effort, these required plans may be made a part of or merged with other plans required by either the state or Federal Government, so long as the portions of the other state or Federal Government plan that constitute the state plan for the prevention of child abuse and neglect are clearly identified as such and are provided to the Speaker of the House of Representatives and the President of the Senate as required above.

Section 9. Paragraphs (c) and (e) of subsection (2) of section 415.50171, Florida Statutes, are amended to read:

415.50171 Family services response system; reports of child-on-child sexual abuse.—

(2) District staff, at a minimum, shall adhere to the following procedures:

(c) The assessment of risk and the perceived treatment needs of the alleged juvenile sexual offender, the victim, and respective caregivers shall be conducted by the district staff, the child protection team of the Department of Health, and other providers under contract with the department to provide services to the caregiver of the alleged offender, the victim, and the victim's caregiver.

(e) When necessary, the child protection team of the Department of Health shall conduct a an evidence-gathering physical examination of the victim which is sufficient to meet forensic requirements.

Section 10. Section 415.50175, Florida Statutes, is amended to read:

415.50175 Confidentiality of records.—

(1) The department and the Department of Health shall make and keep records of all cases brought before them it pursuant to this part and shall preserve the records pertaining to a child and family until 7 years after the last entry was made or until the child is 18 years of age, whichever date is first reached, and may then destroy the records.

(2) Department and Department of Health records required by this part are confidential and are exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I of the State Constitution and, notwithstanding the provisions of s. 415.51, may be inspected only upon order of the court or as provided for in this section. Confidential records and information provided pursuant to the provisions of this section shall remain confidential and exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

(3) Access to records required by this part, excluding the name of the reporter, which shall be released only as provided in s. 415.51(4)(9), may be provided to the child, the parent, and their attorney, law enforcement agencies, and, with the consent of the parent, the agency or individual providing services to the child or family.

(4) The department and the Department of Health shall provide for access to and use of records required by this part for research or statistical purposes. All requests for such records or information shall require the requesting individual or entity to enter into a privacy and security agreement which provides that the requesting individual or entity shall comply with all laws and rules governing the use of such records and information for research and statistical purposes.

Section 11. Subsection (3) of section 415.5018, Florida Statutes, is amended to read:

415.5018 District authority and responsibilities.—

(3) CHILD PROTECTIVE INVESTIGATION; COUNTY SHERIFF'S OFFICE OR LOCAL POLICE DEPARTMENT OPTION.—Within existing resources, a district, with the approval of the district health and human services board, and the secretary of the department, after consultation with the Division of Children's Medical Services of the Department of Health, shall enter into an agreement with a county sheriff's office or local police department that is jurisdictionally responsible to allow such law enforcement entity to assume a lead in conducting any potential criminal investigations as well as partial or full responsibility for conducting certain components of protective investigations under ss. 415.502-415.514 that are related to cases involving a criminal investigation. The written agreement must specify how the requirements of ss. 415.502-415.514 will be met. For the purposes of such agreement, the jurisdictionally responsible law enforcement entity is authorized to share Florida criminal history information that is not otherwise exempt from s. 119.07(1) with the local and district personnel directly responsible for child protective investigation and emergency child placement. The agencies entering into such agreement must comply with s. 943.0525 to the extent applicable. 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.

(a) The agreement between the district and the county sheriff's office or local police department must include the following assurances and information:

1. Assurance that the county sheriff's office or local police department will be in compliance with the procedural requirements of ss. 415.502-415.514.

2. Description of a protocol between the district and the county sheriff's office or local police department that at a minimum addresses the following:

a. Response to reports of abuse and neglect.

- b. Investigations.
  - c. Assessment of risk.
  - d. Evidence gathering.
  - e. Classification of reports.
  - f. Appeals of classifications.
  - g. Communication and involvement with the state attorney.
  - h. Confidentiality of reports and access to information.
  - i. Utilization of the child protection team of the Department of Health.
  - j. Storage and maintenance of records and other information.
3. Description of the transition of responsibility that assures the integrity and continuity of protective investigations.
  4. Description of any necessary changes to department rules.

(b) County sheriff's office or local police department personnel assuming responsibility for conducting certain components of protective investigations shall receive training from the department relevant to child protective investigations and services.

(c) The secretary of the department shall dispose of a proposed agreement by approving or disapproving the agreement between a district and the county sheriff's office or local police department within 60 days after receipt. The secretary may negotiate modifications within this 60-day period.

Section 12. Subsection (5) of section 415.503, Florida Statutes, is amended to read:

415.503 Definitions of terms used in ss. 415.502-415.514.—As used in ss. 415.502-415.514:

(5) "Child protection team" means a team of professionals established by the Department of Health to receive referrals from the protective investigators and protective supervision staff of the family safety and preservation children, youth, and families program and to provide specialized and supportive services to the program in processing child abuse and neglect cases. A child protection team shall provide consultation to other programs of the department and other persons on child abuse and neglect cases pursuant to s. 415.5055(1)(g).

Section 13. Section 415.5055, Florida Statutes, is amended to read:

415.5055 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 representatives



of 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 the Division 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 children, youth, and families 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 s. 415.504 all suspected or actual cases of child abuse 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 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 or neglect, as defined by ~~department~~ 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, guardian or guardians, or other caregivers, or any other individual involved in a child abuse or neglect case, as the team may determine to be needed.

~~(e) Short-term psychological treatment. It is the intent of the Legislature that short-term psychological treatment be limited to no more than 6 months' duration after treatment is initiated, except that the appropriate district administrator may authorize such treatment for individual children beyond this limitation if the administrator deems it appropriate.~~

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

~~(f)(g)~~ Case staffings to develop, ~~implement, and monitor~~ 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 has not been referred to the team, but~~ who is alleged or is shown to be abused, which consultation shall be provided at the request of a representative of the family safety and preservation children, youth, and families program or at the request of any other professional involved with a child or the child's parent or parents, guardian or guardians, or other caregivers. In every such child protection team case staffing, consultation, or staff activity involving a child, a family safety and preservation children, youth, and families program representative shall attend and participate.

~~(g)~~<sup>(h)</sup> Case service coordination and assistance, including the location of services available from other public and private agencies in the community.

~~(h)~~<sup>(i)</sup> Such training services for program and other ~~department 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 and neglect cases.

~~(i)~~<sup>(j)</sup> Educational and community awareness campaigns on child abuse and neglect in an effort to enable citizens more successfully to prevent, identify, and treat child abuse and neglect in the community.

(2) The child abuse and neglect cases that are appropriate for referral by the family safety and preservation children, youth, and families program to child protection teams of the Department of Health for support services as set forth in subsection (1) 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.

(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.

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

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

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

(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 or neglect, when any sibling or other child remains in the home.

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

(3) All records and reports of the child protection team are confidential and exempt from the provisions of ss. 119.07(1) and ~~455.667~~ 455.241, and shall not be disclosed, except, upon request, to the state attorney, law enforcement, the Department of Children and Family Services, the Department of Health, and necessary professionals, in furtherance of the treatment or additional evaluative needs of the child or by order of the court.

In all instances in which a child protection team is providing certain services to abused 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 14. Subsection (2) of section 415.5095, Florida Statutes, is amended to read:

415.5095 Intervention and treatment in sexual abuse cases; model plan.—

(2) The Department of ~~Health~~ ~~Children and Family Services~~ shall develop a model plan for community intervention and treatment of intrafamily sexual abuse in conjunction with the Department of Children and Family Services, the Department of Law Enforcement, the Department of Education, the Attorney General, the state Guardian Ad Litem Program, the Department of Corrections, representatives of the judiciary, and professionals and advocates from the mental health and child welfare community.

Section 15. Subsection (5) of section 415.51, Florida Statutes, is amended to read:

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

(5) All records and reports of the child protection team of the Department of Health are confidential and exempt from the provisions of ss. 119.07(1) and ~~455.667~~ 455.241, and shall not be disclosed, except, upon request, to the state attorney, law enforcement, the department, and necessary professionals, in furtherance of the treatment or additional evaluative needs of the child or by order of the court.

Section 16. Section 415.515, Florida Statutes, is created to read:

415.515 Rules for implementation of ss. 415.5055 and 415.5095.—The Department of Health, in consultation with the Department of Children and Family Services, shall adopt rules governing the child protection teams and the sexual abuse treatment program pursuant to ss. 415.5055 and 415.5095, including definitions, organization, roles and responsibilities, eligibility, services and their availability, qualifications of staff, and a waiver-request process.

Section 17. A memorandum of agreement shall be developed between the Department of Children and Family Services and the Department of Health that specifies how the teams will work with child protective investigation and service staff, that requires joint oversight by the two departments of the

activities of the teams, and that specifies how that oversight will be implemented.

Section 18. Section 415.5075, Florida Statutes, is repealed.

Section 19. This act shall take effect January 1, 1999.

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

Filed in Office Secretary of State May 21, 1998.