

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Children, Families, and Elder Affairs

BILL: SB 1162
INTRODUCER: Senator Bradley
SUBJECT: Mandatory Reports of Child Abuse
DATE: March 14, 2013 **REVISED:** _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Preston	Hendon	CF	Favorable
2.	_____	_____	CJ	_____
3.	_____	_____	AHS	_____
4.	_____	_____	AP	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

SB 1162 amends section 39.201, Florida Statutes to create the following two exceptions relating to the mandatory reporting of child abuse:

- An officer or employee of a law enforcement agency is not required to provide notice to the Department of Children and Families’ (DCF or department) central abuse hotline (hotline) when an incident of suspected child abuse by an adult other than a parent, legal custodian or other person responsible for the child’s welfare under investigation by law enforcement was originally reported to law enforcement by the hotline through the electronic transfer; and
- The central abuse hotline is not required to electronically transfer calls and reports to the county sheriff’s office if the incident of alleged child abuse by an adult other than a parent, legal custodian or other person responsible for the child’s welfare was originally reported to the hotline by the county sheriff’s office or another law enforcement agency.

This bill is anticipated to have no fiscal impact on the state and has an effective date of July 1, 2013.

This bill substantially amends section 39.201 of the Florida Statutes.

II. Present Situation:

Section 39.201, F.S., requires any person who knows, or has reasonable cause to suspect any of the following to report such knowledge or suspicion to the department’s hotline:

- That a child was abused, abandoned, or neglected by a parent, legal custodian, caregiver, or other person responsible for the child's welfare;¹ or
- That a child was in need of supervision and care and had no parent, legal custodian, or responsible adult relative immediately known and available to provide supervision and care.²

Hotline personnel are required to determine if the report received meets the statutory definition of child abuse, abandonment, or neglect. Any report meeting one of these definitions must be accepted for a protective investigation under s. 39.301, F.S.³

Current law provides two exceptions to the reporting requirements:

- A professional who is hired by DCF for the purpose of treating or counseling any person, as a result of a report of child abuse, abandonment, or neglect, is not required to again report to the central abuse hotline the abuse, abandonment, or neglect that was the subject of the referral for treatment;⁴ and
- An officer or employee of the judicial branch is not required to again provide notice of child abuse, abandonment, or neglect when there is reasonable cause to believe the information is already known to the department.⁵

In 2012, s. 39.201, F.S., was amended to add an additional reporting requirement:⁶

- Any person who knows, or has reasonable cause to suspect that a child is abused by an adult **other** than a parent, legal custodian, caregiver, or other person responsible for the child's welfare is required to report such knowledge or suspicion to the hotline. The hotline is required to immediately electronically transfer such reports or calls to the appropriate county sheriff's office.⁷

The 2012 legislation did not create any exceptions to the new reporting requirement.

During implementation of the newly required reporting requirement, hotline staff and law enforcement agencies recognized a "circular reporting requirement"⁸ between the hotline and law enforcement. In instances where a law enforcement officer was the entity who initially

¹ Section 39.01(47), F.S., defines the term "other person responsible for a child's welfare" as including employees of any school, day care center, residential home, facility, institution, or agency; a law enforcement officer employed in any facility, service, or program for children that is operated or contracted by the Department of Juvenile Justice; or any other person legally responsible for the child's welfare in a residential setting; and also includes an adult sitter or relative entrusted with a child's care. The definition exempts law enforcement officers; employees of municipal or county detention facilities; and employees of the Department of Corrections acting in an official capacity, except as otherwise provided in the subsection.

² Section 39.201(1), F.S.

³ Section 39.201(2)(a), F.S.

⁴ Section 39.201(1)(e), F.S.

⁵ Section 39.201(1)(f), F.S., applies when the child is currently being investigated by DCF, there is an existing dependency case, or the matter has previously been reported to the department; and only when the information has been provided to the officer or employee in the course of carrying out his or her official duties.

⁶ Chapter 2012-155, s.1, Laws of Fla.

⁷ Section 39.201(2)(b), F.S. (2012).

⁸ Department of Children and Families, *Senate Bill 1162 Staff Analysis and Economic Impact*. (Feb. 22, 2013) (on file with the Senate Committee on Children, Families, and Elder Affairs).

identified that a child was being abused by someone other than a parent, legal custodian, caregiver, or other person responsible for the child's welfare, law enforcement was required to report the incident under investigation to the hotline that was then required to immediately transfer the information back to the law enforcement agency.⁹

III. Effect of Proposed Changes:

The bill amends s. 39.201, F.S., creating the following two exceptions to the requirement that any person who knows, or has reasonable cause to suspect that a child is abused by an adult other than a parent, legal custodian, caregiver, or other person responsible for the child's welfare report such knowledge or suspicion to the hotline:

- An officer or employee of a law enforcement agency is not required to provide notice to the hotline when an incident of suspected child abuse by an adult other than a parent, legal custodian or other person responsible for the child's welfare under investigation by law enforcement was originally reported to law enforcement by the hotline through electronic transfer; and
- The central abuse hotline is not required to electronically transfer calls and reports to the county sheriff's office if the incident of alleged child abuse by an adult other than a parent, legal custodian or other person responsible for the child's welfare was originally reported to the hotline by the county sheriff's office or another law enforcement agency.

These exceptions only apply when the information related to the alleged child abuse was provided to an officer or employee of a law enforcement agency or a hotline employee in the course of official duties.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

⁹ *Id.*

B. Private Sector Impact:

None.

C. Government Sector Impact:

The elimination of the redundant reporting requirement inadvertently created in 2012 should result in a reduced workload on local law enforcement agencies.¹⁰

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:**A. Committee Substitute – Statement of Substantial Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

¹⁰ *Id.*