

1                                   A bill to be entitled  
 2           An act relating to juvenile justice; creating s.  
 3           985.702, F.S.; providing definitions; providing for  
 4           the imposition of criminal penalties against specified  
 5           employees who inflict cruel or inhuman treatment upon  
 6           juvenile offenders; providing enhanced penalties for  
 7           such treatment that results in great bodily harm,  
 8           permanent disability, or permanent disfigurement to a  
 9           juvenile offender; specifying that such conduct  
 10          constitutes sufficient cause for an employee's  
 11          dismissal from employment; prohibiting such employee  
 12          from future employment with the juvenile justice  
 13          system; providing incident reporting requirements;  
 14          prohibiting an employee who witnesses such an incident  
 15          from knowingly or willfully failing to report;  
 16          prohibiting false reporting, preventing another from  
 17          reporting, or coercing another to alter testimony or  
 18          reports; providing penalties; amending s. 985.701,  
 19          F.S.; defining the term "juvenile offender" for  
 20          purposes of prohibiting sexual misconduct with  
 21          juvenile offenders; providing an effective date.

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

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 25           Section 1. Section 985.702, Florida Statutes, is created to  
 26   read:  
 27           985.702 Malicious infliction of cruel or inhuman treatment  
 28   prohibited; reporting required; penalties.-

29 (1) As used in this section, the term:

30 (a) "Employee" means a paid staff member, volunteer, or  
31 intern who works in a department program or a program operated  
32 by a provider under a contract with the department.

33 (b) "Juvenile offender" means any person of any age who is  
34 detained, or committed to the custody of, the department.

35 (c) "Neglect of a juvenile offender" means:

36 1. An employee's failure or omission to provide a juvenile  
37 offender with the proper level of care, supervision, and  
38 services necessary to maintain the juvenile offender's physical  
39 and mental health, including, but not limited to, adequate food,  
40 nutrition, clothing, shelter, supervision, medicine, and medical  
41 services; or

42 2. An employee's failure to make a reasonable effort to  
43 protect a juvenile offender from abuse, neglect, or exploitation  
44 by another person.

45 (2)(a) Any employee who, with malicious intent, inflicts  
46 cruel or inhuman treatment by neglect or otherwise, without  
47 causing great bodily harm, permanent disability, or permanent  
48 disfigurement to a juvenile offender, commits a misdemeanor of  
49 the first degree, punishable as provided in s. 775.082 or s.  
50 775.083.

51 (b) Any employee who, with malicious intent, inflicts  
52 cruel or inhuman treatment by neglect or otherwise, and in so  
53 doing causes great bodily harm, permanent disability, or  
54 permanent disfigurement to a juvenile offender, commits a felony  
55 of the third degree, punishable as provided in s. 775.082, s.  
56 775.083, or s. 775.084.

57 (c) Notwithstanding prosecution, any violation of  
58 paragraph (a) or paragraph (b), as determined by the Public  
59 Employees Relations Commission, constitutes sufficient cause  
60 under s. 110.227 for dismissal from employment with the  
61 department, and such person may not again be employed in any  
62 capacity in connection with the juvenile justice system.

63 (3) An employee who witnesses the infliction of cruel or  
64 inhuman treatment committed against a juvenile offender shall  
65 immediately report the incident to the department's incident  
66 hotline and prepare, date, and sign an independent report that  
67 specifically describes the nature of the incident, the location  
68 and time of the incident, and the persons involved. The employee  
69 shall deliver the report to the employee's supervisor or program  
70 director, who must provide copies to the department's inspector  
71 general and the circuit juvenile justice manager. The inspector  
72 general shall immediately conduct an appropriate administrative  
73 investigation, and, if there is probable cause to believe that a  
74 violation of subsection (2) has occurred, the inspector general  
75 shall notify the state attorney in the circuit in which the  
76 incident occurred.

77 (4) (a) Any person who is required to prepare a report  
78 under this section who knowingly or willfully fails to do so, or  
79 who knowingly or willfully prevents another person from doing  
80 so, commits a misdemeanor of the first degree, punishable as  
81 provided in s. 775.082 or s. 775.083.

82 (b) Any person who knowingly or willfully submits  
83 inaccurate, incomplete, or untruthful information with respect  
84 to a report required under this section commits a misdemeanor of

85 | the first degree, punishable as provided in s. 775.082 or s.  
86 | 775.083.

87 | (c) Any person who knowingly or willfully coerces or  
88 | threatens any other person with the intent to alter testimony or  
89 | a written report regarding an incident of the infliction of  
90 | cruel or inhuman treatment commits a felony of the third degree,  
91 | punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

92 | Section 2. Paragraph (a) of subsection (1) of section  
93 | 985.701, Florida Statutes, is amended to read:

94 | 985.701 Sexual misconduct prohibited; reporting required;  
95 | penalties.—

96 | (1)(a)1. As used in this subsection, the term:

97 | a. "Sexual misconduct" means fondling the genital area,  
98 | groin, inner thighs, buttocks, or breasts of a person; the oral,  
99 | anal, or vaginal penetration by or union with the sexual organ  
100 | of another; or the anal or vaginal penetration of another by any  
101 | other object. The term does not include an act done for a bona  
102 | fide medical purpose or an internal search conducted in the  
103 | lawful performance of duty by an employee of the department or  
104 | an employee of a provider under contract with the department.

105 | b. "Employee" includes paid staff members, volunteers, and  
106 | interns who work in a department program or a program operated  
107 | by a provider under a contract.

108 | c. "Juvenile offender" means a person of any age who is  
109 | detained or supervised by, or committed to the custody of, the  
110 | department.

111 | 2. An employee who engages in sexual misconduct with a  
112 | juvenile offender detained or supervised by, or committed to the

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113 custody of, the department commits a felony of the second  
114 degree, punishable as provided in s. 775.082, s. 775.083, or s.  
115 775.084. An employee may be found guilty of violating this  
116 subsection without having committed the crime of sexual battery.

117 3. The consent of the juvenile offender to any act of  
118 sexual misconduct is not a defense to prosecution under this  
119 subsection.

120 4. This subsection does not apply to an employee of the  
121 department, or an employee of a provider under contract with the  
122 department, who:

123 a. Is legally married to a juvenile offender who is  
124 detained or supervised by, or committed to the custody of, the  
125 department.

126 b. Has no reason to believe that the person with whom the  
127 employee engaged in sexual misconduct is a juvenile offender  
128 detained or supervised by, or committed to the custody of, the  
129 department.

130 Section 3. This act shall take effect upon becoming a law.