

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 757 Mandatory Reports of Child Abuse

SPONSOR(S): Hood and others

TIED BILLS: None **IDEN./SIM. BILLS:** SB 1162

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Criminal Justice Subcommittee	13 Y, 0 N	Cox	Cunningham
2) Healthy Families Subcommittee	12 Y, 0 N	McElroy	Schoolfield
3) Judiciary Committee	17 Y, 0 N	Cox	Havlicak

SUMMARY ANALYSIS

During the 2012 Legislative Session, House Bill 1355 passed, which amended s. 39.201, F.S., to add additional reporting requirements relating to child abuse. HB 1355, in part, required 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 to report such knowledge or suspicion to the Central Abuse Hotline (Hotline) maintained by the Department of Children Families (DCF). The Hotline is required to immediately electronically transfer such reports or calls to the appropriate county sheriff's office. The bill did not create any exceptions to the newly-created reporting requirement.

Shortly after the bill became effective, Hotline staff and law enforcement agencies recognized a redundancy in the newly-created reporting requirements. In instances where a law enforcement officer was the entity who initially identified that a child was being abused by someone other than a parent, etc., such officer was required to report his or her knowledge to the Hotline, who was then required to immediately report such information back to the law enforcement agency.

The bill amends s. 39.201, F.S., to create the following two exceptions to the above-described reporting requirement:

- An officer or employee of a law enforcement agency is not required to provide notice to the Hotline when the incident under investigation by the agency was originally reported to law enforcement by the Hotline through the electronic transfer of the report or call; and
- The Hotline is not required to electronically transfer calls and reports to the county sheriff's office if the incident of alleged abuse was originally reported to the Hotline by the county sheriff's office or another law enforcement agency.

DCF reports that the bill will have a negligible fiscal impact, if any.

The bill provides an effective date of July 1, 2013.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Prior to 2012, s. 39.201, F.S., required any person who knew, or had reasonable cause to suspect any of the following to report such knowledge or suspicion to the Central Abuse Hotline (Hotline) maintained by the Department of Children Families (DCF):

- 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.

Upon receipt of such reports, the Hotline was required to conduct an investigation.²

The statute provided for the following 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;³ 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 DCF.⁴

During the 2012 Legislative Session, House Bill 1355 passed, which amended s. 39.201, F.S., to add additional reporting requirements.⁵ The bill, in part, requires 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 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.⁶ The bill did not create any exceptions to the new reporting requirement.

Shortly after the bill became effective, Hotline staff and law enforcement agencies recognized a redundancy in the newly-created reporting requirements.⁷ In instances where a law enforcement officer was the entity who initially identified that a child was being abused by someone other than a parent, etc., such officer was required to report his or her knowledge to the Hotline, who was then required to immediately report such information back to the law enforcement agency.⁸

Effect of the Bill

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:

¹Section 39.01(47), F.S., states "other person responsible for a child's welfare" includes 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(2)(a), F.S. (2011).

³ Section 39.201(1)(e), F.S.

⁴ 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.

⁵ Chapter 2012-155, L.O.F.

⁶ Section 39.201(2)(b), F.S. (2012).

⁷ *Staff Analysis and Economic Impact*, Department of Children and Families. (On file with the Criminal Justice Subcommittee staff).

⁸ *Id.*

- An officer or employee of a law enforcement agency is not required to provide notice to the Hotline when the incident under investigation by the agency was originally reported to law enforcement by the Hotline through the electronic transfer of the report or call; and
- The Hotline is not required to electronically transfer calls and reports to the county sheriff's office if the incident of alleged abuse 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 the officer or employee of a law enforcement agency or the Hotline employee in the course of such officer or employee's official duties.

B. SECTION DIRECTORY:

Section 1. Amends 39.201, F.S., relating to mandatory reports of child abuse, abandonment, or neglect; mandatory reports of death; central abuse hotline.

Section 2. Provides an effective date of July 1, 2013.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The bill does not appear to have any impact on state revenues.

2. Expenditures:

DCF reports that the bill will have a negligible fiscal impact on DCF, if any.⁹

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The bill does not appear to have any impact on local government revenues.

2. Expenditures:

The bill amends s. 39.201, F.S., to eliminate redundant reporting requirements inadvertently created in 2012. The bill's exceptions will eliminate this redundancy, which should result in a reduced workload on local law enforcement agencies.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

⁹ *Id.*
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This bill appears to be exempt from the requirements of Article VII, Section 18 of the Florida Constitution because it is a criminal law.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill does not appear to create a need for rulemaking or rulemaking authority.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

None.