

# SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

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

BILL: SB 1910

SPONSOR: Senator Laurent

SUBJECT: Protective Investigations

DATE: March 20, 2000                      REVISED: 03/28/00                      \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Barnes</u>	<u>Whiddon</u>	<u>CF</u>	<u>Fav/3 Amendments</u>
2.	_____	_____	<u>CJ</u>	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____

**I. Summary:**

SB 1910 requires that the Department of Children and Family Services determine if a known or suspected case of child abuse, abandonment, or neglect involves criminal conduct and needs to be forwarded for a criminal investigation to the municipality or county law enforcement agency.

The bill defines “criminal conduct” as a violation of ss. 827.03, 39.201(64), or 39.302(1), F.S. Section 39.201(64), F.S., does not exist; the reference should be s. 39.01(64), F.S., which is the definition for “sexual abuse of a child.”

The bill specifies that upon receiving the allegation of criminal conduct, the law enforcement agency must review the information in the report to determine whether a criminal investigation is warranted. The bill specifies that upon accepting the case for investigation, the law enforcement agency must coordinate its investigative activities with the Department of Children and Family Services whenever feasible. The cases which are not accepted by the law enforcement agency are referred back to the Department of Children and Family Services.

The bill provides for the child protective investigator in the Department of Children and Family Services to photograph the child’s living environment as part of the investigative activities.

This bill amends section 39.301, of the Florida Statutes.

**II. Present Situation:**

Section 39.301, F.S., was amended in ch. 99-168, L.O.F., to specify that upon notification by the central abuse hotline within the Department of Children and Family Services (department) of a report of known or suspected child abuse, abandonment, or neglect, the child protective investigator in the appropriate service district immediately notifies the appropriate law enforcement agency of the county in which the known or suspected child abuse, abandonment, or neglect is believed to have occurred. The law enforcement agency then reviews the report and

determines whether a criminal investigation of the case is warranted. If so, the law enforcement agency conducts the criminal investigation and coordinates the investigation, whenever possible, with the child protective investigation being conducted by the department or with its agent.

Section 827.03, F.S., defines abuse, aggravated abuse, and neglect of a child and includes penalties for each offense.

Section 39.302, F.S., includes provisions for protective investigations of institutional child abuse, abandonment, or neglect. The department conducts a child protective investigation of each report of institutional child abuse, abandonment, or, and orally notifies, the appropriate state attorney, law enforcement agency, and licensing agency when receiving a report which alleges that an employee or agent of the department, or any other entity or person covered by s. 39.01(32) or (48), F.S., acting in an official capacity, committed an act of child abuse, abandonment, or neglect.

The department reports that from July 1, 1999 through February, 2000, there were 115,270 reports of alleged child abuse, abandonment, or neglect referred to local law enforcement agencies to review and determine if a criminal investigation was warranted. There is no available data base to determine the number of these reports for which law enforcement conducted a criminal investigation.

There have been varying interpretations of the law enforcement agency's responsibility to determine if a criminal investigation of the referred case is warranted. Some law enforcement agencies have interpreted this provision as requiring that the case be investigated only if the information in the report indicates that a crime has been committed. However, there are also interpretations that it is law enforcement's responsibility to determine if a violation of law has occurred. As a result, some law enforcement agencies have conducted a criminal investigation on every case referred from the hotline in order for them to accurately determine if a violation of law has occurred. While the number of cases referred to all law enforcement agencies has been reported to have increased, the counties which have interpreted their statutory responsibility in this way have reported a tremendous increase in workload. The overriding thrust of this provision has been to place the responsibility for determining if a crime has been committed with law enforcement, where that expertise exists, instead of the Department of Children and Family Services.

### **III. Effect of Proposed Changes:**

SB 1910 amends s. 39.301, F.S., to specify that the Department of Children and Family Services must immediately forward allegations of criminal conduct received by the central abuse hotline to the municipality or county law enforcement agency in which the alleged conduct has occurred. The bill includes no provisions to assure that the department staff who make this determination have experience or expertise in criminal investigatory activities. The current training and experience requirements for department staff do not include criminal investigatory training or experience. This bill could result in criminal behavior that is never prosecuted because a report was not referred by the department and, therefore, a criminal investigation was not completed by law enforcement agencies.

The bill defines “criminal conduct” as a violation of s. 827.03, F.S., (abuse, aggravated abuse, and neglect of a child); ss. 39.201(64), or 39.302(1), F.S., (institutional child abuse, abandonment, or neglect). Section 39.201(64), F.S., does not exist; the reference should be s. 39.01(64), F.S., which is the definition for “sexual abuse of a child.”

The bill specifies that upon receiving the allegation of criminal conduct, the law enforcement agency must review the information in the report to determine whether a criminal investigation is warranted. The bill specifies that upon accepting the case for investigation, the law enforcement agency must coordinate its investigative activities with the Department of Children and Family Services whenever feasible. If the law enforcement agency does not accept the case, it is referred back to the department.

The bill provides for the child protective investigator in the department to photograph the child’s living environment as part of his/her investigative activity and deletes the requirement that any law enforcement agency participating in an investigation take such photographs.

**IV. Constitutional Issues:**

**A. Municipality/County Mandates Restrictions:**

None.

**B. Public Records/Open Meetings Issues:**

None.

**C. Trust Funds Restrictions:**

None.

**V. Economic Impact and Fiscal Note:**

**A. Tax/Fee Issues:**

None.

**B. Private Sector Impact:**

None.

**C. Government Sector Impact:**

The department reports that an undetermined amount of funds will be needed for purchasing cameras in order for each of the 912 child protective investigators to photograph the child’s living environment.

SB 1910 would require that an information system be developed for the central abuse hotline staff to immediately transmit, electronically, those abuse reports that they believe to have allegations of criminal conduct. This system must be designed to protect the confidentiality of those reports. The cost of this system is undetermined.

SB 1910 could result in law enforcement agencies spending a greater amount of time on other community law enforcement activities if there is a reduction in the number of alleged child abuse, abandonment, or neglect reports referred to them.

**VI. Technical Deficiencies:**

Section 39.201(64), F.S., does not exist; the reference should be s. 39.01(64), F.S., which is the definition for “sexual abuse of a child.”

**VII. Related Issues:**

None.

**VIII. Amendments:**

# 1 by Children and Families:

Removes an incorrect statutory reference and inserts the correct reference, s. 39.,01(64), F.S. the definition of “sexual abuse of a child.”

# 2 by Children and Families:

Specifies that the law enforcement agency must review information in a **written** report to determine if a criminal investigation is warranted.

# 3 by Children and Families:

Removes the provision from the bill relating to the child protective investigator being responsible for photographing the child’s living environment. (WITH TITLE AMENDMENT)