

# 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: CS/CS/SB 730

SPONSOR: Committee on Fiscal Policy, Committee on Children and Families and Senator Cowin

SUBJECT: Foster Care and Related Services

DATE: April 14, 2000

REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Dowds</u>	<u>Whiddon</u>	<u>CF</u>	<u>Favorable/CS</u>
2.	<u>Peters</u>	<u>Hadi</u>	<u>FP</u>	<u>Favorable/CS</u>
3.	<u>                    </u>	<u>                    </u>	<u>                    </u>	<u>                    </u>
4.	<u>                    </u>	<u>                    </u>	<u>                    </u>	<u>                    </u>
5.	<u>                    </u>	<u>                    </u>	<u>                    </u>	<u>                    </u>

**I. Summary:**

CS/CS/SB 730 continues the efforts of the child protection bill (SB 338) adopted by the 1999 Legislature (ch. 99-168, L.O.F.) to provide an effective and efficient infrastructure for protecting Florida's children. This bill includes provisions relative to child protection teams, law enforcement's involvement in the child protection system, foster care, and child abuse protection. The major provisions of the bill include the following:

**Child Protection Teams**

Adds the child protection teams (CPTs) to those individuals identified who may have access to the name of the person reporting the child abuse, abandonment, or neglect.

Provides in statute for the full scope of the child protection team assessment instead of solely the medical evaluation.

Modifies the indicators of harm that are used to refer cases to the CPTs for an assessment.

Revises who can conduct a review of a child referred to the CPT to determine if a face to face medical evaluation is needed.

Expands the circumstances under which a face-to-face CPT medical evaluation can be determined not necessary.

Requires that photographs of sexual abuse trauma be excluded from the Department of Children and Family Services' investigative file and included only in the CPT record.

Eliminates the Office of Vital Statistics as the source for identifying those child deaths that are due to child abuse.

**Law Enforcement**

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

Makes permissive the requirement that law enforcement take photographs of the child's living environment and broadens the scope of photographs to those that document the abuse or neglect.

Requires the Department of Children and Family Services to enter into a grant agreement with Seminole County effective FY 2000-2001 to perform child protective investigations in Seminole County, subject to a specific appropriation.

**Foster Care**

Requires that if a child is not placed with a parent or legal custodian the reasons must be specified in writing and provided to the court.

Requires that an assessment be conducted on children placed in a shelter to determine the child's strengths and needs.

Requires that each Department of Children and Family Services district or lead agency develop a plan for potential foster parents and emergency shelter parents' completion of the training in as convenient a manner as possible.

Directs the department or its agent to provide foster parents with information regarding the anticipated date of placement of a foster child, if placement is not within 60 days, and a monthly status report on the placement of children in their home.

Requires the Department of Children and Family Services to provide each foster home with a telephone number that can be used by the foster parent to call during normal working hours when immediate assistance is needed and the caseworker is not available.

Directs the department to minimize the number of caseworkers who must interact with a foster family, to the extent practicable.

Directs the department to provide at least 2 weeks notice prior to moving the child to another placement unless the child's safety is at risk.

**Child Abuse Protection**

Directs the Department of Children and Family Services to develop specific certification criteria relative to conducting investigations involving children with special needs.

Clarifies that the voice recordings of the central abuse hotline calls can be released to law enforcement, the state attorneys, and employees of the department for the purposes of

investigating and prosecuting criminal charges associated with making a false report of child abuse or neglect.

Modifies the mandatory reporting of child abuse to not require officers and employees of the judicial branch, in their official capacity, to provide notice of suspected child abuse when the child is currently being investigated by the department, there is an existing dependency case, or the matter has been previously reported to the department.

Stipulates that judges are not subject to criminal prosecution for failing to report child abuse when the information was received in the course of official duties.

Clarifies that the target of the department's quality assurance program review is the "calls," not the reports.

Limits the calls which the department will monitor for the purpose of this quality assurance review to those specifically related to ch. 39 definitions of harm.

Modifies the classifying of a case as a high risk for which a petition for dependency is required to be filed to factors that the department may consider in determining whether a case is high-risk.

Strengthens the ability of the investigator to retain the custody of a child with a parent or legal adult and remove the perpetrator from the home, thus allowing the child to remain in the home.

Changes the time frame provided for the state attorney to report on their determination of whether or not prosecution of a case is justified.

Expands the time frame which the department has to complete its investigation from 30 days to 60 days.

Requires that the quality assurance programs in both the Department of Health and Department of Children and Family Services include a review of the children's records for whom no findings of abuse were found to determine if these findings were appropriate.

Establishes a statewide 1-800 Pregnant And In Need (PAIN) hotline and public awareness campaign targeting pregnant teens not reached with current outreach efforts to prevent the abandonment of babies.

Requires that certain full-time equivalent positions not be subject to position lapse adjustments in the General Appropriations Act or imposed by the department in its annual operating budget.

Establishes a workgroup in the Department of Children and Family Services for the purpose of evaluating the cases referred to the child protection teams but for whom appointments were not kept.

Directs any funds appropriated for the establishment of model dependency court pilot programs for FY 2000-2001 in the 5th, 10th, and 17th judicial circuits be used for hiring general masters to

hear cases referred by the presiding judge and for related support for the dependency division pilot project.

Removes the title “Kayla McKean Child Protection Act” from ch. 99-168, L.O.F.

This bill substantially amends the following sections of Florida Statutes: 20.19, 39.201, 39.202, 39.301, 39.303, 39.304, 39.3065, 39.401, 39.402, 39.507, 383.011, 383.402, 409.1671, and 409.175. This bill also creates section 409.1753, of the Florida Statutes.

## II. Present Situation:

The Kayla McKean Child Protection Act, which was adopted in the 1999 Legislative Session (ch. 99-168, L.O.F.), focused on tightening Florida’s process for protecting children. The legislation made substantial revisions to the operation of a number of components of the child protection system, including to the central abuse hotline; child protective investigations; child protection teams; and community based agencies under contract with the department. As Florida continues its efforts to provide an effective and efficient infrastructure for its child protection system, refinements to the operational revisions adopted last year are necessary, as are additional improvements.

### **Child Protection Teams**

Section 39.303, F.S., establishes the child protection teams (CPTs) in the Division of Children’s Medical Services of the Department of Health to supplement the assessment and protective supervision activities of the family safety program within the Department of Children and Family Services. Each service district of the Department of Children and Family Services has one or more multi-disciplinary child protection teams that are comprised of representatives of appropriate health, mental health, social services, legal service, and law enforcement agencies. Section 39.303, F.S., requires that all abuse and neglect reports transmitted from the hotline to the district also be transmitted to the CPT for a determination as to which contain indicators of harm or maltreatment. Section 39.303, F.S., also requires that every report of child abuse, abandonment, and neglect that involves one of the specified indicators of harm or maltreatment be referred to the CPT for a face-to-face evaluation. The only exception allowed is if a physician has examined the child and a consultation with a CPT physician or registered nurse practitioner concludes that a further examination is unnecessary.

The indicators of harm or maltreatment that are used to identify those cases that must be referred to the CPTs are delineated in s. 39.303(2), F.S., and are as follows:

- Bruises, burns, or fractures in a child of any age;
- Sexual abuse of a child;
- Venereal disease or any other sexually transmitted disease in a prepubescent child;
- Reported malnutrition of a child and failure of a child to thrive;
- Reported medical, physical, or emotional neglect of a child;
- Any family in which one or more child has died as a result of child abuse;
- Symptoms of serious emotional problems; or
- Injuries to the child’s head.

Section 39.303(3), F.S., identifies who can review a referred case to determine if a face-to-face medical evaluation is needed. Currently, all referrals must be reviewed by a CPT physician or registered nurse practitioner (under the supervision of the CPT physician) to determine if a face-to-face medical evaluation is needed or a consultation between the examining physician and either the CPT physician or nurse practitioner can determine that a face-to-face medical evaluation is not necessary. Child protection teams are required to take photographs of the trauma area of a child who is suspected of being abused, abandoned, or neglected (s. 39.304(1), F.S.). These photographs are to be provided to the Department of Children and Family Services to be included in their investigative file.

As written, the effect of the Kayla Bill on the child protection teams has been a substantial and, to some degree, inappropriate increase in the number of children referred to the child protection system for a face-to-face medical evaluation. During 1998-99, a total of 20,676 children were referred to the CPTs, with medical evaluations conducted on 4,034 of the children. For 1999-2000, Children's Medical Services estimates that 37,762 children will be referred and 22,072 children will receive medical evaluations. Between October and December of 1999, the percentage of children evaluated for whom no findings were found to support the allegation that one of the specified injuries had occurred ranged from 46 to 49 percent. Not only has there been an enormous increase in the number of cases for which the CPTs are conducting medical evaluations, but almost half of those cases did not meet the criteria warranting a CPT evaluation.

The State Child Abuse Death Review Committee was established by the Kayla Bill in s. 383.402, F.S., within the Department of Health. County Health Departments are also authorized to establish local child abuse death review committees. These committees are charged with reviewing the facts and circumstances of all child deaths that result from child abuse or neglect.

### **Law Enforcement**

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 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.

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 to require that the case be investigated only if the information in the report indicates that a crime has been committed, as suggested by the term "review." However, there are also interpretations that it is the law enforcement agency'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 law enforcement 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 responsibility in statute as determining whether a criminal investigation is warranted regardless of the information contained in the report, have reported a tremendous increase in workload. The overriding thrust of this provision is 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.

Section 39.3065, F.S., sets forth the provision of child protective investigations by the sheriffs of Pasco, Manatee, and Pinellas Counties. The Department of Children and Family Services is directed to transfer all responsibility for child protective investigations for Pinellas, Manatee, and Pasco Counties to the sheriffs of each of these counties by the end of FY 1999-2000. The transfer process began during FY 1998-1999, with a requirement for the department to enter into contract with the sheriffs of the respective counties for all or a portion of the child protective investigations for the first year. Subsection (3) of s. 39.3065, F.S., delineates certain requirements of the sheriffs' offices of Pasco, Manatee, and Pinellas Counties in providing child protective investigations for their respective counties. These requirements include operating in accordance with established performance standards, a prohibition to integrating appropriated funds into the sheriff's regular budget, maintaining of certain data, and program performance evaluation expectations.

### **Foster Care**

When a child is taken into custody by a law enforcement officer or an authorized agent of the Department of Children and Family Services, and facts are found sufficient to support the filing of a shelter petition, pursuant to ss. 39.401(1) and (3), F.S., the department may place the child in licensed shelter care or may release the child to a parent or legal custodian or a responsible adult relative. Placement of the child with a responsible adult relative is to be provided a priority consideration over a licensed placement or a responsible adult approved by the department.

Children receiving services pursuant to ch. 39, F.S., including children in out-of-home placements, are required to have a case plan. The case plan developed for the child, pursuant to s. 39.601, F.S., is a plan for the future and permanency of the child. In cases where the child is in an out-of-home placement, the case plan must be prepared within 60 days after the child has been removed from the home and submitted to the court before the disposition hearing. Placement of children into foster care and other types of out-of-home placements are made prior to the completion of the case plan.

Foster homes are licensed, pursuant to s. 409.175, F.S. As a condition of licensure, foster parents are required to successfully complete a minimum of 21 hours of preservice training and 8 hours annually of in-service training (ss. 409.175(13)(a) and (b), F.S.). Even though a training

component currently exists, foster parents identified in a survey conducted for the Senate Interim Project on Enhanced Family Foster Home Recruitment and Retention (Interim Project Report 2000-16), indicated a need for a stronger training program that focused more closely on the particular problems being experienced by the children in their care. Foster parents also identified support and communication with the agency as essential elements to the foster care system.

### **Child Abuse Protection**

Section 39.201, F.S., sets forth the requirements for reporting child abuse, abandonment, or neglect. Any person who knows or has reasonable cause to suspect that a child is abused, abandoned, or neglected by a parent or other person responsible for the child's welfare is required to report such knowledge or suspicion to the Department of Children and Family Services, s. 39.201(1), F.S. Several professions are specifically identified as being persons required to report child abuse, but with clarification that persons required to report are not limited to these professions. With the adoption of SB 338, judges were added to the list of specified professions. Under s. 39.205(1), F.S., a person who knowingly or willfully fails to report known or suspected child abuse, abandonment, or neglect is guilty of a first degree misdemeanor.

The Department of Children and Family Services is directed to voice record all incoming or outgoing calls received or placed by the central abuse hotline which relate to child abuse, neglect, or abandonment (s. 39.201(2)(g), F.S.). The recordings are to become a part of the file, but are provided with the same confidentiality as the identity of the callers is provided in s. 39.202, F.S. Section 39.202(4), F.S., provides that the name of the person reporting child abuse, neglect, or abandonment may not be released to any person other than employees of the department responsible for child protective services, the central abuse hotline, law enforcement, or the appropriate state attorney, without the written consent of the person reporting. The Department of Children and Family Services' quality assurance program is directed to review reports to the hotline involving three or more unaccepted reports on a single child to detect such things as harassment and situations that warrant an investigation because of the frequency or variety of the source of the reports (s. 39.201(9), F.S.).

Section 39.301, F.S., sets forth the requirements relative to initiating and conducting a protective investigation. Some of the requirements delineated include an assessment of risk for the child and family, consideration of high risk cases in filing a petition for dependency, the time frame for completion of the investigation, circumstances when the state attorney is to be notified of the investigation, and the time frame for the state attorney to report findings regarding the appropriateness of prosecution. If the department determines that immediate or long term protection is needed and can be provided through the provision of family preservation services, these will be offered. If there are high risk factors, or the parents refuse voluntary family preservation services, or for other reasons the child's need for protection requires protective custody, such protective custody is ordered. When a petition for shelter placement or petition for dependency has been filed or the child has been taken into custody an injunction can be issued if reasonable cause of child abuse or likelihood of child abuse exists, s. 39.504, F.S. The injunction shall apply to the alleged or actual offender in a case of child abuse. The conditions of the injunction may include ordering the offender to refrain from further abuse, to participate in a specialized treatment program, to limit contact or communication with the child, to refrain from

contacting the child, to have limited or supervised visitation, to pay temporary child support, or to vacate the home in which the child resides.

To address the periods of time when authorized positions are vacant due to normal turnover, delays in program start up or other unexpected events, the Legislature in the FY 1998-99 General Appropriations Act implemented a 2 percent lapse of positions in all state agencies. The Department of Children and Family Services usually includes an additional lapse amount at headquarters and in the districts in order to cover other anticipated shortfalls in funding for services or fixed overhead costs such as rent and utilities. The problem of vacant positions, in the child protection system results in high caseloads and a backlog of abuse/neglect reports waiting for an investigation. The ability of districts to keep front line staff child welfare positions such as child protective investigators filled is critical to the ongoing supervision and safety of children.

The phenomenon of abandoned newborn babies has generated significant public interest and public concern. Based on media reports, the infants are abandoned in public places, trash bins, and other areas for any number of reasons by mothers who range in age from teens to their forties. A yet unpublished survey taken by the U.S. Department of Health and Human Services of media reports nationwide indicates that while many of the babies are born full-term and healthy, one third of them die before they are found. It appears that one of the groups of mothers who could be considered at particularly high risk of abandoning their babies are pregnant teens who are experiencing complex problems and fear the ramifications of being pregnant and having a baby. As a result, they do not receive prenatal care and the support necessary to assist them with their problems and with decisions regarding their baby.

A Healthy Start Care Coordination program is established in each county which provides pregnant women with prenatal care, as well as outreach, assessment of risk factors, case management, home visiting, counseling and social services to the pregnant women, infant and her family (s. 383.011(e), F.S.). The Healthy Start Coalitions, as set forth in s. 383.216, F.S., are responsible for building the partnerships in a community, developing the plans, and coordinating the delivery of these Healthy Start Care Coordination services as part of a community-based prenatal and infant care system.

Section 39.507, F.S., sets forth the provisions for adjudicatory hearings, where an adjudication of dependency is determined. Currently, s. 39.507, F.S., does not provide direction to judges regarding the status of children who have been adjudicated by the courts when the Department of Children and Family Services petitions for termination of supervision. While s. 39.013(2), F.S., provides that the court shall retain jurisdiction of a child who has been found to be dependent until the child reaches the age of 18, unless relinquished by its order, clear direction for the adjudicatory process when the department releases supervision of the child and family is needed.

The new statutory mandates enacted by the Legislature in 1998 and 1999 in response to the federal Adoptions and Safe Families Act have tremendously increased the workload of the dependency court judges and their support staff. In an effort to meet the aggressive time frames designed to reach permanency for children, the courts are developing model dependency court programs to be implemented on a pilot basis. Using the pilots, child protection professionals would be able to evaluate the outcomes for children and their families when resources and support services are available to the judiciary. One option for the model programs is the utilization of



general masters to assist the courts in the conduct of the judicial reviews, which have more than doubled with the new state and federal requirements.

### III. Effect of Proposed Changes:

CS/SB 730 continues the efforts of child protection legislation (ch. 99-168, L.O.F.) adopted by the 1999 Legislature to provide an effective and efficient infrastructure for protecting Florida's children. This bill includes provisions relative to child protection teams, law enforcement's involvement in the child protection system, foster care, and child abuse protection. The specific provisions of the bill are as follows:

#### **Child Protection Team**

Section 39.202(4), F.S., adds the child protection teams (CPTs) to those individuals identified who may have access to the name of the person reporting the child abuse, abandonment, or neglect. With the new responsibility to review all reports of abuse and neglect to determine if the criteria of harm or maltreatment is met, the Department of Health maintains that CPTs now need all the information contained in the report, including the name of the reporter.

The modification to s. 39.303, F.S., corrects terminology by changing "director of" to "Deputy Secretary for" Children's Medical Services.

Currently, the evaluations conducted by CPTs are described as, and limited to, medical evaluations. However, the children may need more than or something other than a medical evaluation depending on the injury or situation. A new subparagraph is added to s. 39.303(1), F.S., to more clearly identify the full scope of the child protection team assessment. As provided in the new subparagraph, the child protection team assessments may include medical evaluation, medical consultation, family psychosocial interviews, specialized clinical interviews, or forensic interviews. References to the medical evaluation are changed to the CPT assessment in other provisions of this bill. The current Department of Health policy that all medical personnel participating in the child protection team must have successfully completed the required child protection team training is included in statute to formalize the requirement for any medical personnel joining CPTs.

Section 309.303(2), F.S., which specifies those cases which must be referred to CPT for an assessment, has been modified to clarify and better identify the cases of maltreatment that necessitate a CPT review. The specifications of the cases to be referred have been modified as follows:

- ▶ Sub-paragraph (a) "Bruises, burns, or fractures in a child of any age" and sub-paragraph (h) "Injuries to a child's head," are redefined into two criteria which are based on the age of the child: "Injuries to the head, bruises to the neck or head, burns, or fractures in a child of any age"; and "Bruises anywhere on a child 5 years of age or under."
- ▶ The term "venereal disease" is removed from the criteria which had referred to both venereal disease and sexually transmitted disease. The terms are redundant.
- ▶ Reported "emotional" neglect is removed from the current sub-paragraph (e), since it is covered in sub-paragraph (g).

With these revisions children over the age of 5 years with bruises to areas of the body other than the neck or head would no longer be a required referral for a CPT assessment. Since bruises to the areas of the body other than the neck and head for older children are usually attributable to reasons other than abuse, Children's Medical Services estimates that these revisions will still capture virtually all of the bruises that are abusive, while reducing the number of referrals to be assessed by child protection teams.

Section 39.303(3), F.S., revises the identification of personnel authorized to conduct a review of a child referred to the CPT to determine if a face-to-face medical evaluation is needed. The individuals who can conduct the reviews are broadened to include the following:

- ▶ A physician whose certification is in a specialty other than pediatrics, but only under the direction of a board certified pediatrician who is a member of the CPT;
- ▶ An registered nurse, but only under the direct supervision of a board certified pediatrician who is a member of a CPT;
- ▶ A physician assistant, also only under the supervision of a board certified pediatrician who is a member of a CPT.

A new sub-paragraph (4) of s. 39.303, F.S., is created to expand the circumstances under which a face-to-face medical evaluation is determined not needed to the following:

- ▶ In addition to the currently allowed non-CPT physician consulting with a CPT physician or an advanced registered nurse practitioner who can determine that a face to face medical evaluation is not necessary, the non-CPT physician can also consult with a CPT advanced registered nurse practitioner or a physician assistant to make this determination. The registered nurse and physician assistant must both be under supervision of a CPT physician.
- ▶ The child protective investigator who, with supervisory approval, has found that none of the criteria of harm or maltreatment, as delineated in paragraph (2), sub-paragraphs (a) through (h) of s. 39.303, F.S., are met, **and** that none of the following are present in the family:
  - a history of substance abuse,
  - a history of domestic violence,
  - prior reports with indications or verified findings of abuse,
  - prior reports that the family did not keep a CPT referral appointment, or
  - prior reports of law enforcement involvement.

**and** a CPT physician reviews the safety assessment and reaches the same conclusion, can determine that a medical evaluation is not needed. The safety assessment conducted by the child protective investigator and the supervisory approval must be received by the CPT within 4 days.

Subsection (4) of s. 39.303, F.S., further provides that regardless of any determination made not to conduct a face-to-face medical evaluation, a CPT physician or CPT advanced registered nurse practitioner can determine that a face-to-face medical evaluation is, in fact, needed. This provides the CPT with final authority as to whether or not a face-to-face medical evaluation is necessary.

The new provisions of ss. 39.303(3) and (4), F.S., will expand the circumstances under which a face-to-face medical evaluation can be determined not necessary, and expand who can make this determination, while retaining final authority and control with the CPT. This will provide opportunities to eliminate the inappropriate referrals and, in turn, reduce the number of children who require an actual face-to-face CPT medical evaluation. The expertise of the CPT will be

more accurately targeted on the children who have actually experienced some form of injury, while providing some form of a review by a medical personnel for all children.

Section 39.304(1)(a), F.S., is amended to require that photographs of sexual abuse trauma be excluded from the Department of Children and Family Services' investigative file and included only in the CPT record. Current statutory language leaves open for interpretation whether sexual abuse trauma photographs could be placed in the Department of Children and Family Services' file. The bill delineates between photographs of physical abuse injuries for which duplicates can be placed in the Department of Children and Family Services records and sexual abuse trauma photographs which, because of their particular sensitivity, can only be made part of the CPT medical record.

The requirement that local child abuse death review committees review all deaths resulting from child abuse which are reported to the Office of Vital Statistics was modified to eliminate the reference to reports from the Office of Vital Statistics in s. 383.402(7), F.S. The Office of Vital Statistics does not maintain child death information based on child abuse and, therefore, cannot be the source for identifying child abuse deaths.

Section 383.402(18)(g), F.S., is amended to substitute the Department of Health Child Abuse Death Review Coordinator for the Assistant Health Officer of the Department of Health in the identified group who the district child abuse death review coordinators are to notify of all child abuse deaths meeting the specified criteria for review. Clarification is also provided that the one working day for reporting child abuse deaths is one day after verifying the child's death was due to abuse, neglect, or abandonment, not after learning of the child's death.

### **Law Enforcement**

Section 39.301(2), F.S., is amended 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 defines "criminal conduct" as a violation of s. 827.03, F.S., (abuse, aggravated abuse, and neglect of a child); s. 39.302(1), F.S., (institutional child abuse, abandonment, or neglect); ss. 827.071 or 39.01, F.S., (sexual battery or sexual abuse); or when a child who is known or suspected to have died as a result of abuse or neglect. 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, the agency must inform the department in writing. This modification shifts the responsibility for identifying from the reports of child abuse when a criminal violation may have occurred from law enforcement to the Department of Children and Family Services. Local protocols for handling abuse reports and coordinating investigations between the department and law enforcement agencies are to be included in agreements required in s. 39.306, F.S.

Section 39.301(17), F.S., is amended to make permissive the requirement that law enforcement take photographs of the child's living environment and broadens the scope of photographs to

those that document the abuse or neglect. The provision that the photographs become part of the investigative file is eliminated. Photographs of the child's living environment may not be applicable or necessary in all allegations of child abuse. The abuse may have occurred in settings other than the child's home. This modification allows the law enforcement agency conducting the criminal investigation the flexibility to determine when photographs are appropriate and necessary, and allows for photographs documenting the abuse or neglect, even if not in the child's living environment. These photographs taken by law enforcement form evidence in a criminal investigation and, as such, are to be a part of the criminal investigation file and not the department's file.

Section 39.3065, F.S., relative to the sheriff's provision of child protective investigative services, has been amended to require that the Department of Children and Family Services enter into a grant agreement with Seminole County, effective FY 2000-2001, to perform child protective investigations in Seminole County, subject to a specific appropriation.

### **Foster Care**

The reference to "privatization" in s. 39.201(8), F.S., is changed to "community-based care." This modification reflects the Department of Children and Family Services' intended direction of transitioning to community-based systems of care, versus strictly privatizing the current system of services.

Section 39.401(3), F.S., is amended to require that if a child who has been taken into custody and placed in out-of-home care is not placed with a parent or legal custodian, the reasons must be specified in writing and provided to the court. While ch. 39, F.S., currently expresses the preference for placing children removed from their home with a relative, this modification further emphasizes the priority of the relative placement by requiring that the department document their efforts and reasons for not placing the child with a relative.

Subsection (16) of s. 39.402, F.S., is created to require that an assessment be conducted on children placed in a shelter to determine the child's strengths and needs. The information from the assessment is to be used to develop an initial case plan to determine the child's on-going placement and to arrange for services for the child. Such information could provide a more extensive and in-depth understanding of the child and potentially more appropriate matches between the child and the on-going placement settings. The foster parent could also use this information to more effectively assist and care for the child.

Subsection (1)(a) of s. 39.504 is amended to add an additional condition for issuing an injunction when a child protective investigator has determined that a child can remain safely in the child's own home.

The training provisions for foster parents in s. 409.175(13), F.S., is amended to require that each Department of Children and Family Services district or lead agency develop a plan for potential foster parents and emergency shelter parents' completion of the training in as convenient a manner as possible. The plan is to include strategies to provide training in non-traditional places and at non-traditional times, and must be updated annually. Section 409.175(13), F.S., is also amended to direct the department or its agent to provide foster parents with information regarding the

anticipated date of placement of a foster child and, if placement is not made within 60 days, requires a monthly status report on the placement of children in their home.

Section 409.1753, F.S., is created to delineate the following duties of the Department of Children and Family Services relative to foster care:

- ◆ The department is required to provide each foster home with a telephone number that can be used by the foster parent to call during normal working hours when immediate assistance is needed and the caseworker is not available. The individuals answering these phone calls must have the knowledge and authority necessary to adequately assist the foster parents. This provision will offer foster parents with a process to obtain the assistance they require in the event their caseworker is unavailable.
- ◆ The department is directed to minimize the number of caseworkers who must interact with a foster family, to the extent practicable. Each district, or the designated agent, is required to develop an annual plan that describes the actions that will be taken to implement this directive.
- ◆ The department is directed to provide at least 2 weeks notice prior to moving the child to another placement, unless the child's safety is at risk. This notice is intended to provide all parties with sufficient time to plan for the move.

### **Child Abuse Protection**

Section 20.19, F.S., is amended to direct the Department of Children and Family Services to develop specific certification criteria relative to conducting investigations involving children with developmental disabilities, emotional disturbances, or chronic medical conditions, or who are residing in residential treatment facilities. The introduction of this training and certification criteria will build the competencies of investigators to more accurately investigate cases of child abuse, neglect or abandonment involving children with disabilities and other special needs and to more appropriately address their needs.

Section 39.201(2)(g), F.S., is amended to clarify that the voice recordings of the central abuse hotline calls can be released to law enforcement, the state attorneys, and employees of the department for the purposes of investigating and either prosecuting criminal charges or seeking administrative fines associated with making a false report of child abuse or neglect. This language mirrors the currently referenced confidentiality provision of s. 39.202, F.S., as specified in subsection (4), which allows employees of the department, law enforcement, and state attorneys access to the name of the person reporting child abuse.

Section 39.201(7), F.S., is amended to stipulate that ch. 39, F.S., does not require an officer or employee of the judicial branch to provide notice of suspected child abuse, abandonment, or neglect when the child is currently being investigated by the department, there is an existing dependency case, or the matter has been previously reported to the department. This stipulation only applies if the information has been provided in the course of the officer or employee's official duties. In addition, s. 39.205(1), F.S., is amended to provide that judges are not subject to criminal prosecution for failing to report child abuse, abandonment, or neglect, when the information was received in the course of official duties.

Section 39.201(9), F.S., is amended to make a technical adjustment and change the word “reports” to the word “calls” relative to the target of the department’s quality assurance program review. The intent of this quality assurance review is to monitor the calls not accepted as reports, not the reports resulting from the calls. In addition, language is added to limit the calls which the department will monitor for the purpose of this quality assurance review to those calls that specifically relate to ch. 39, F.S., definitions of harm. Numerous calls are received at the hotline which are outside the realm of ch. 39, F.S., definitions of harm, such as requests for information, situations where there is no caretaker or for other reasons clearly not departmental jurisdiction. This amendment provides clarification of the calls intended to be monitored for the purposes of this paragraph.

The requirement in s. 39.301(5)(a), F.S., to provide information to the person who is subject of the child abuse investigation when an investigation is initiated, is modified to eliminate specific reference to department personnel or department provision of services since in some communities the sheriff’s office will be performing these functions. Language is added to require that the information be provided in an easy to understand written document and that this document be updated within 30 days of any statutory or rule change that affects the specified information. The provision of this information in writing will further ensure that parents and legal custodians are informed and understand their rights and options.

The specification in s. 39.301(8)(b), F.S., that cases involving parents of young age, the use of illegal drugs, or domestic violence, are automatically classified as high risk cases for which a petition for dependency is required to be filed, is modified to be factors that the department *may* consider in determining whether a case is high-risk. Currently, a petition for dependency must be filed for all cases where there is a parent of a young age, the use of illegal drugs, and the existence of domestic violence. This modification will allow the department to determine when these circumstance make the case high-risk and warrant that a petition for dependency be filed.

A new subsection (12) is added to s. 39.301, F.S., to strengthen the direction provided the protective investigator to retain the custody of a child with a parent or legal custodian and seek the removal of the perpetrator from the home, thus allowing the child to remain in the home. Specifically, when the child protective investigator determines that a child can remain safely in the child’s own home but only after injunctive relief pursuant to s. 39.504, F.S., has been granted, subsection (12) sets forth two options for temporarily removing the child from the home and determining custody of the children and the conditions under which each of the options may be used. The first option available to the investigator is to leave the child in the custody of the parent or legal custodian if the parent or legal custodian is available, willing, and capable of removing the child from the home temporarily while the injunction is being sought and a safety plan is developed with the assistance of the child protective investigator, approved, and followed. Where domestic violence is occurring, assistance in developing the safety plan from the local domestic violence center is to be requested. If one of the conditions required for the first option are not met, the second option available to the investigator is for the child to be taken into protective custody while the injunction is being sought.

The requirement of the department in s. 39.301(12)(c), F.S., renumbered (13)(c) in this bill, to include input from law enforcement when an administrative review is conducted of the cases where the child was neither taken into custody or for whom a petition for dependency was not

filed was clarified to apply to cases that were accepted by law enforcement for criminal investigation. Section 39.301(14), F.S., is also amended to expand the time frame which the department has to complete its investigation from 30 days to 60 days.

The time frame provided for the state attorney to report on their determination of whether or not prosecution of a case is justified in s. 39.301(18), F.S., renumbered (19) in this bill, is changed from 15 days after their completion of the investigation of the case to 15 days after the case is reported to the state attorney.

A new subsection (6) to s. 39.303, F.S., is added to require that the quality assurance programs in both the Department of Health and Department of Children and Family Services include a review of the children's records for whom no findings of abuse were found to determine if these findings were appropriate. The results of these reviews are to be included in each department's quality assurance reports. This provision establishes a retrospective review to confirm the accuracy of the determinations.

The Department of Health is directed in s. 383.011(e), F.S., to establish a statewide 1-800 Pregnant And In Need (PAIN) hotline and public awareness campaign. The purpose of the campaign is to get existing prenatal care and care coordination services to pregnant teens not reached with current outreach efforts in order to prevent the abandonment of babies. The Department of Health will make grant funds available to Healthy Start Coalitions for the development and implementation of the campaign. Stipulations for utilizing the funds are provided. This hotline and public awareness initiative is intended to target pregnant teens who are at high risk of abandoning their babies and link them to prenatal care and other services that could offer the support necessary to consider other options.

The requirement that the Department of Children and Family Services provide a summary of the child protective investigation on children to the community-based agency with which the child was placed in s. 409.1671, F.S., was enhanced to require the summary not only at the point the case is transferred to the community-based agency but also at the conclusion of the investigation.

The bill requires that full-time equivalent positions directly involved in the investigation of child abuse or neglect or related to the protection of children not be subject to position lapse adjustments in the General Appropriations Act or imposed by the department in its annual operating budget.

A workgroup in the Department of Children and Family Services is established by the bill for the purpose of evaluating the cases referred to the child protection teams but for whom appointments were not kept. The evaluation is to distinguish between the types of maltreatment cases reported and examine the actions and follow-up activities of the various parties involved. Other state agencies, organizations, and staff that are to be included in the workgroup are identified. A report of the findings of the evaluation with recommendations for process improvements and policy changes to reduce the incidence of unkept appointments is to be submitted to the Legislature by November 1, 2001.

Subsection (6) of s. 39.507, F.S., is amended to provide the court with full authority for the child as adjudicated until the child reaches 18 years of age. It stipulates that this jurisdiction applies

regardless of whether or not the child is under the supervision of the Department of Children and Family Services. This language would provide clarification that the judges jurisdiction is not tied to supervision of the child or family by the Department of Children and Family Services.

Language is provided that directs any funds appropriated for the establishment of model dependency court pilot programs for FY 2000-2001 in the 5th, 10th, and 17th judicial circuits to be used for hiring general masters to hear cases referred by the presiding judge. The Office of the State Courts Administrator is required to evaluate the utilization of the general masters and provide a report to the President of the Senate and the Speaker of the House of Representatives by December 1, 2001.

The title "Kayla McKean Child Protection Act" given to child protection legislation passed in 1999 (ch. 99-168, L.O.F.), was removed. Reference to the Kayla McKean Child Protection Act in s. 383.402, F.S., was also removed.

The bill provides an effect date of July 1, 2000.

**IV. Constitutional Issues:**

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

None.

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

None.

**C. Trust Funds Restrictions:**

None.

**D. Other Constitutional Issues:**

None.

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

**A. Tax/Fee Issues:**

None.

**B. Private Sector Impact:**

None.



### C. Government Sector Impact:

#### Department of Children and Families:

- ◆ The requirement for the department to develop specific certification criteria related to investigations of children with developmental disabilities, emotional disturbances, or chronic medical conditions residing in residential treatment is minimal and is estimated to cost \$52,700 (\$26,350 GR and \$26,350 TF).
- ◆ The requirement that full-time equivalent positions of the department not be subject to position lapse which are directly involved in the investigation of child abuse and neglect or involved in child protection is estimated to cost \$1,059,822 (\$718,347 GR and \$341,475 TF).
- ◆ The requirement to gather data and analyze child abuse and neglect reports is estimated to be insignificant and cost no more than \$25,000.
- ◆ The requirement for the Department of Children and Family Services to contract with Seminole County Sheriffs Office to provide child protective investigation services will entail the department transferring its funding for the investigative responsibilities to the sheriffs office. The Senate budget currently includes \$2.6 million for FY 2000-01.
- ◆ The implementation of an assessment conducted on children placed in a shelter to determine the child's strengths and needs and most appropriate placement may require the payment of clinical professionals to perform the assessment. However, assessments of children are conducted now, and in addition, the Agency for Health Care Administration and the Department of Children and Family Services are working to adapt an existing Medicaid funded assessment for this purpose which would provide federal matching funds for the provision of this service.

#### Department of Health:

- ◆ The department states that there will be no fiscal impact. The redefining of the cases that are to be referred to child protection teams for review combined with an expansion of the circumstances under which a face-to-face medical evaluation can be determined not necessary and an expansion of who can make those determinations should result in a decrease in the number of children referred for reviews and the number of actual medical evaluations that need to be conducted. This will prevent a workload increase that appeared necessary as a result of the 1999 Kayla legislation..
- ◆ The Pregnant And In Need (PAIN) hotline and public awareness campaign to prevent the abandonment of babies is contingent upon a specific appropriation. The Senate budget does not include any funding for the hotline in FY 2000-01.

#### Office of the State Courts Administrator:

- ◆ The bill specifies that any funds appropriated for the establishment of model dependency court pilot programs for FY 2000-01 in the 5th, 10th, and 17th judicial circuits are to be used for hiring general masters to hear cases referred to the presiding judge and for

related support for the dependency division pilot project. The Senate has included \$350,000 in the budget for FY 2000-01.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Amendments:**

None.

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This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.

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