

STORAGE NAME: h0855.flc

DATE: March 11, 2000

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
FAMILY LAW AND CHILDREN
ANALYSIS**

BILL #: HB 855

RELATING TO: Child Abuse & Neglect

SPONSOR(S): Representative Murman

TIED BILL(S):

ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:

- (1) FAMILY LAW AND CHILDREN
 - (2) LAW ENFORCEMENT & CRIME PREVENTION
 - (3) HEALTH AND HUMAN SERVICES APPROPRIATIONS
 - (4)
 - (5)
-

I. SUMMARY:

This bill provides that a child protective investigator from the Department of Children and Family Services should make a determination as to whether an allegation of child abuse or neglect, received by the child abuse hotline, warrants a criminal investigation. This bill provides criteria for making that determination. This bill provides for notification of the appropriate law enforcement agency if a criminal investigation is warranted, and for coordination of the agency's investigative activities with the Department. This bill also revises the circumstances under which photographs documenting child abuse or neglect are taken, during the investigation. This bill has an effective date of July 1, 2000.

This bill has no fiscal impact.

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

- | | | | |
|-----------------------------------|------------------------------|-----------------------------|---|
| 1. <u>Less Government</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 2. <u>Lower Taxes</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. <u>Individual Freedom</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. <u>Personal Responsibility</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. <u>Family Empowerment</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

For any principle that received a "no" above, please explain:

B. PRESENT SITUATION:

In 1999, the Legislature approved legislation entitled "The Kayla McKean Child Protection Act" to address gaps in the statutory framework of Florida's child protection system. See ch. 99-168, L.O.F. Included in the legislation is the requirement that child protective investigators immediately notify law enforcement officials upon receipt of a report of child abuse or neglect received through the Department of Children and Family Services' Central Abuse Hotline. s. 39.301(2), F.S. Once contacted, law enforcement must determine if a criminal investigation of the case is warranted. Id. If a criminal investigation is warranted, then law enforcement must coordinate their criminal investigation, with the child protective investigation of the Department. Id.

In addition, the Kayla McKean Child Protection Act requires a law enforcement agency, participating in a child abuse investigation, to take photographs of the child's living environment, and to keep those photographs as part of the investigation file. s. 39.301(17), F.S.

As a result of the Kayla McKean Child Protection Act, some law enforcement agencies began responding to every report of child abuse or neglect. Many law enforcement agencies are dispatching officers along with child protective investigators, and the determination to conduct a criminal investigation is made on the scene by the law enforcement officer.

C. EFFECT OF PROPOSED CHANGES:

This bill would require that a child protective investigator determine, using a specified criteria, whether a criminal investigation is needed, instead of first notifying the local law enforcement agency and having the agency make the determination. Law enforcement agencies would no longer be required to review all reports of child abuse or neglect to determine if a criminal investigation is warranted.

If the law enforcement agency accepts the case for criminal investigation, the agency must coordinate its investigative activities with the Department whenever feasible.

This bill also requires a law enforcement agency, conducting a criminal investigation into allegations of child abuse or neglect, to take photographs documenting the abuse or neglect, where appropriate.

D. SECTION-BY-SECTION ANALYSIS:

Section 1. Amends subsection (2) and (17) of s. 39.301, F.S., relating to initiation of protective investigations. This section provides that upon receipt of an allegation of child abuse or neglect received by the Central Abuse Hotline, a child protective investigator must make a determination as to whether a criminal investigation is warranted, based upon specified criteria. If a criminal investigation is warranted, the child protective investigator must notified the appropriate law enforcement agency. The agency must review the information in the report and determine whether a criminal investigation is warranted. If the agency accepts the case for criminal investigation, the investigative activities must be coordinated with the Department whenever feasible.

This section also requires that when conducting a criminal investigation into allegations of child abuse or neglect, the law enforcement agency must take photographs documenting the abuse or neglect, when appropriate.

Section 2. Provides an effective date of July 1, 2000.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

This bill may reduce the need for local law enforcement officers to accompany a child protective investigator to the scene of an alleged act of child abuse or neglect, thus possibly reducing the fiscal impact of the Kayla McKean Child Protection Act on affected law enforcement agencies. In addition, this bill would probably reduce the resources required by law enforcement agencies to review every report of alleged child abuse or neglect received by the Central Abuse Hotline. The amount of the reduction of fiscal impact on law enforcement is indeterminate at this time.

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

This bill does not require counties or municipalities to spend funds or take an action requiring expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This bill does not reduce the authority that municipalities have to raise revenues in the aggregate.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

This bill does not reduce the percentage of state sales tax shared with municipalities.

V. COMMENTS:

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

None.

C. OTHER COMMENTS:

None.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

N/A

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VII. SIGNATURES:

COMMITTEE ON FAMILY LAW AND CHILDREN:

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