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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/01/2012	.	
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The Committee on Criminal Justice (Hays) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause and insert:

Section 1. Subsections (48) through (76) of section 39.01, Florida Statutes, are renumbered as subsections (47) through (75), respectively, and present subsections (10) and (47) of that section are amended to read:

39.01 Definitions.—When used in this chapter, unless the context otherwise requires:

(10) "Caregiver" means the parent, legal custodian,



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13 permanent guardian, adult household member, or other person
14 responsible for a child's welfare as defined in subsection (47).

15 ~~(47) "Other person responsible for a child's welfare"~~
16 ~~includes the child's legal guardian or foster parent; an~~
17 ~~employee of any school, public or private child day care center,~~
18 ~~residential home, institution, facility, or agency; a law~~
19 ~~enforcement officer employed in any facility, service, or~~
20 ~~program for children that is operated or contracted by the~~
21 ~~Department of Juvenile Justice; or any other person legally~~
22 ~~responsible for the child's welfare in a residential setting;~~
23 ~~and also includes an adult sitter or relative entrusted with a~~
24 ~~child's care. For the purpose of departmental investigative~~
25 ~~jurisdiction, this definition does not include the following~~
26 ~~persons when they are acting in an official capacity: law~~
27 ~~enforcement officers, except as otherwise provided in this~~
28 ~~subsection; employees of municipal or county detention~~
29 ~~facilities; or employees of the Department of Corrections.~~

30 Section 2. Paragraph (a) of subsection (1) and paragraph
31 (a) of subsection (2) of section 39.201, Florida Statutes, are
32 amended to read:

33 39.201 Mandatory reports of child abuse, abandonment, or
34 neglect; mandatory reports of death; central abuse hotline.—

35 (1) (a) Any person who knows, or has reasonable cause to
36 suspect, that a child is abused, abandoned, or neglected by any
37 person ~~a parent, legal custodian, caregiver, or other person~~
38 ~~responsible for the child's welfare, as defined in this chapter,~~
39 or that a child is in need of supervision and care and has no
40 parent, legal custodian, or responsible adult relative
41 immediately known and available to provide supervision and care,



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42 shall report such knowledge or suspicion to the department in
43 the manner prescribed in subsection (2).

44 (2) (a) Each report of known or suspected child abuse,
45 abandonment, or neglect by any person ~~a parent, legal custodian,~~
46 ~~caregiver, or other person responsible for the child's welfare~~
47 ~~as defined in this chapter~~, except those solely under s.
48 827.04(3), and each report that a child is in need of
49 supervision and care and has no parent, legal custodian, or
50 responsible adult relative immediately known and available to
51 provide supervision and care shall be made immediately to the
52 department's central abuse hotline. Such reports may be made on
53 the single statewide toll-free telephone number or via fax or
54 web-based report. Personnel at the department's central abuse
55 hotline shall determine if the report received meets the
56 statutory definition of child abuse, abandonment, or neglect.
57 Any report meeting one of these definitions shall be accepted
58 for the protective investigation pursuant to part III of this
59 chapter. Any report of child abuse, abandonment, or neglect by a
60 person other than the child's caregiver as defined in s.
61 39.01(10), shall be taken by the Florida Abuse Hotline and
62 forwarded to the appropriate county sheriff's office pursuant to
63 paragraph (b).

64 Section 3. Subsections (3) through (6) of section 39.205,
65 Florida Statutes, are renumbered as subsections (5) through (8),
66 respectively, and new subsections (3) and (4) are added to that
67 section to read:

68 39.205 Penalties relating to reporting of child abuse,
69 abandonment, or neglect.—

70 (3) Any Florida College System institution, state



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71 university, or nonpublic college, university, or school, as
72 defined in s. 1000.21 or s. 1005.02, whose administrators,
73 faculty, or staff knowingly and willfully fail to report known
74 or suspected child abuse, abandonment, or neglect committed on
75 the property of the institution, university, college, or school,
76 or during an event or function sponsored by the institution,
77 university, college, or school, or who knowingly and willfully
78 prevent another person from doing so, shall be subject to fines
79 of \$1 million for each such failure and the loss of all state
80 funding, including the funds under the Florida Resident Access
81 Grant Program, for a period of 2 years.

82 (4) Any Florida College System institution, state
83 university, or nonpublic college, university, or school, as
84 defined in s. 1000.21 or s. 1005.02, whose law enforcement
85 agency fails to transmit to prosecutorial authorities any report
86 of known or suspected child abuse, abandonment, or neglect
87 committed on the property of the institution, university,
88 college, or school, or during an event or function sponsored by
89 the institution, university, college, or school, shall be
90 subject to fines of \$1 million for each such failure and the
91 loss of all state funding, including the funds under the Florida
92 Resident Access Grant Program, for a period of 2 years.

93 Section 4. Subsection (1) of section 39.302, Florida
94 Statutes, is amended to read:

95 39.302 Protective investigations of institutional child
96 abuse, abandonment, or neglect.—

97 (1) The department shall conduct a child protective
98 investigation of each report of institutional child abuse,
99 abandonment, or neglect. Upon receipt of a report that alleges



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100 that an employee or agent of the department, or any other entity
101 or person covered by s. 39.01(33) ~~or (47)~~, acting in an official
102 capacity, has committed an act of child abuse, abandonment, or
103 neglect, the department shall initiate a child protective
104 investigation within the timeframe established under s.
105 39.201(5) and orally notify the appropriate state attorney, law
106 enforcement agency, and licensing agency, which shall
107 immediately conduct a joint investigation, unless independent
108 investigations are more feasible. When conducting investigations
109 onsite or having face-to-face interviews with the child,
110 investigation visits shall be unannounced unless it is
111 determined by the department or its agent that unannounced
112 visits threaten the safety of the child. If a facility is exempt
113 from licensing, the department shall inform the owner or
114 operator of the facility of the report. Each agency conducting a
115 joint investigation is entitled to full access to the
116 information gathered by the department in the course of the
117 investigation. A protective investigation must include an onsite
118 visit of the child's place of residence. The department shall
119 make a full written report to the state attorney within 3
120 working days after making the oral report. A criminal
121 investigation shall be coordinated, whenever possible, with the
122 child protective investigation of the department. Any interested
123 person who has information regarding the offenses described in
124 this subsection may forward a statement to the state attorney as
125 to whether prosecution is warranted and appropriate. Within 15
126 days after the completion of the investigation, the state
127 attorney shall report the findings to the department and shall
128 include in the report a determination of whether or not



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129 prosecution is justified and appropriate in view of the
130 circumstances of the specific case.

131 Section 5. Section 796.036, Florida Statutes, is created to
132 read:

133 796.036 Violations involving minors; reclassification.-

134 (1) The felony or misdemeanor degree of any violation of
135 this chapter, other than s. 796.03 or s. 796.035, in which a
136 minor engages in prostitution, lewdness, assignation, sexual
137 conduct, or other conduct as defined in or prohibited by this
138 chapter, but the minor is not the person charged with the
139 violation, is reclassified as provided in this section.

140 (2) Offenses shall be reclassified as follows:

141 (a) A misdemeanor of the second degree is reclassified to a
142 misdemeanor of the first degree.

143 (b) A misdemeanor of the first degree is reclassified to a
144 felony of the third degree.

145 (c) A felony of the third degree is reclassified to a
146 felony of the second degree.

147 (d) A felony of the second degree is reclassified to a
148 felony of the first degree.

149 (e) A felony of the first degree is reclassified to a life
150 felony.

151 Section 6. Section 960.198, Florida Statutes, is amended to
152 read:

153 960.198 Relocation assistance for victims of domestic
154 violence or sexual violence.-

155 (1) Notwithstanding the criteria set forth in s. 960.13 for
156 crime victim compensation awards, the department may award a
157 one-time payment of up to \$1,500 on any one claim and a lifetime



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158 maximum of \$3,000 to a victim of domestic violence who needs
159 immediate assistance to escape from a domestic violence
160 environment or to a victim of sexual violence who reasonably
161 fears for her or his safety.

162 (2) In order for an award to be granted to a victim for
163 relocation assistance:

164 (a) There must be proof that a domestic violence or sexual
165 violence offense was committed;

166 (b) The domestic violence or sexual violence offense must
167 be reported to the proper authorities;

168 (c) The victim's need for assistance must be certified by a
169 certified domestic violence center or a certified rape crisis
170 center in this state; and

171 (d) The center certification must assert that the victim is
172 cooperating with law enforcement officials, if applicable, and
173 must include documentation that the victim has developed a
174 safety plan.

175 Section 7. Subsection (1) of section 794.056, Florida
176 Statutes, is amended to read:

177 794.056 Rape Crisis Program Trust Fund.—

178 (1) The Rape Crisis Program Trust Fund is created within
179 the Department of Health for the purpose of providing funds for
180 rape crisis centers in this state. Trust fund moneys shall be
181 used exclusively for the purpose of providing services for
182 victims of sexual assault. Funds credited to the trust fund
183 consist of those funds collected as an additional court
184 assessment in each case in which a defendant pleads guilty or
185 nolo contendere to, or is found guilty of, regardless of
186 adjudication, an offense provided in s. 775.21(6) and (10)(a),



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187 (b), and (g); s. 784.011; s. 784.021; s. 784.03; s. 784.041; s.
188 784.045; s. 784.048; s. 784.07; s. 784.08; s. 784.081; s.
189 784.082; s. 784.083; s. 784.085; s. 787.01(3); s. 787.02(3); s.
190 787.025; s. 787.06; s. 787.07; s. 794.011; s. 794.05; s. 794.08;
191 s. 796.03; s. 796.035; s. 796.04; ~~s. 796.045~~; s. 796.05; s.
192 796.06; s. 796.07(2)(a)-(d) and (i); s. 800.03; s. 800.04; s.
193 810.14; s. 810.145; s. 812.135; s. 817.025; s. 825.102; s.
194 825.1025; s. 827.071; s. 836.10; s. 847.0133; s. 847.0135(2); s.
195 847.0137; s. 847.0145; s. 943.0435(4)(c), (7), (8), (9)(a),
196 (13), and (14)(c); or s. 985.701(1). Funds credited to the trust
197 fund also shall include revenues provided by law, moneys
198 appropriated by the Legislature, and grants from public or
199 private entities.

200 Section 8. Section 938.085, Florida Statutes, is amended to
201 read:

202 938.085 Additional cost to fund rape crisis centers.—In
203 addition to any sanction imposed when a person pleads guilty or
204 nolo contendere to, or is found guilty of, regardless of
205 adjudication, a violation of s. 775.21(6) and (10)(a), (b), and
206 (g); s. 784.011; s. 784.021; s. 784.03; s. 784.041; s. 784.045;
207 s. 784.048; s. 784.07; s. 784.08; s. 784.081; s. 784.082; s.
208 784.083; s. 784.085; s. 787.01(3); s. 787.02(3); 787.025; s.
209 787.06; s. 787.07; s. 794.011; s. 794.05; s. 794.08; s. 796.03;
210 s. 796.035; s. 796.04; ~~s. 796.045~~; s. 796.05; s. 796.06; s.
211 796.07(2)(a)-(d) and (i); s. 800.03; s. 800.04; s. 810.14; s.
212 810.145; s. 812.135; s. 817.025; s. 825.102; s. 825.1025; s.
213 827.071; s. 836.10; s. 847.0133; s. 847.0135(2); s. 847.0137; s.
214 847.0145; s. 943.0435(4)(c), (7), (8), (9)(a), (13), and
215 (14)(c); or s. 985.701(1), the court shall impose a surcharge of



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216 \$151. Payment of the surcharge shall be a condition of
217 probation, community control, or any other court-ordered
218 supervision. The sum of \$150 of the surcharge shall be deposited
219 into the Rape Crisis Program Trust Fund established within the
220 Department of Health by chapter 2003-140, Laws of Florida. The
221 clerk of the court shall retain \$1 of each surcharge that the
222 clerk of the court collects as a service charge of the clerk's
223 office.

224 Section 9. This act shall take effect October 1, 2012.
225

226 ===== T I T L E A M E N D M E N T =====

227 And the title is amended as follows:

228 Delete everything before the enacting clause
229 and insert:

230 A bill to be entitled
231 An act relating to protection of vulnerable persons;
232 amending s. 39.01, F.S.; deleting the definition of
233 the term "other person responsible for a child's
234 welfare"; conforming provisions; amending s. 39.201,
235 F.S.; revising provisions concerning child abuse
236 reporting; amending s. 39.205, F.S.; requiring
237 specified educational institutions and their law
238 enforcement agencies to report known or suspected
239 child abuse, abandonment, or neglect in certain
240 circumstances; providing financial penalties for
241 violations; amending s. 39.302, F.S.; conforming a
242 cross-reference; creating s. 796.036, F.S.; providing
243 for upward reclassification of certain prostitution
244 offenses involving minors; amending s. 960.198, F.S.;



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245 providing for relocation assistance for certain
246 victims of sexual violence; amending ss. 794.056 and
247 938.085, F.S.; conforming cross-references; providing
248 an effective date.