

Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	<u> </u>	(Y/N)
ADOPTED AS AMENDED	<u> </u>	(Y/N)
ADOPTED W/O OBJECTION	<u> </u>	(Y/N)
FAILED TO ADOPT	<u> </u>	(Y/N)
WITHDRAWN	<u> </u>	(Y/N)
OTHER	<u> </u>	

1 Committee/Subcommittee hearing bill: Criminal Justice
 2 Subcommittee

3 Representative Harrell offered the following:

4
 5 **Amendment (with title amendment)**

6 Remove everything after the enacting clause and insert:
 7 Section 1. Section 985.702, Florida Statutes, is created to
 8 read:

9 985.702 Malicious infliction of cruel or inhuman treatment
 10 prohibited; reporting required; penalties.-

11 (1) As used in this section, the term:

12 (a) "Employee" means paid staff members, volunteers, and
 13 interns who work in a department program or a program operated
 14 by a provider under a contract with the department.

15 (b) "Juvenile offender" means any person of any age who is
 16 detained, or committed to the custody of, the department.

17 (c) "Neglect of a juvenile offender" means:

18 1. An employee's failure or omission to provide a juvenile
 19 offender with the proper level of care, supervision, and
 20 services necessary to maintain the juvenile offender's physical

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21 and mental health, including, but not limited to, adequate food,
22 nutrition, clothing, shelter, supervision, medicine, and medical
23 services; or

24 2. An employee's failure to make a reasonable effort to
25 protect a juvenile offender from abuse, neglect, or exploitation
26 by another person.

27 (2) (a) Any employee who, with malicious intent, inflicts
28 cruel or inhuman treatment by neglect or otherwise, without
29 causing great bodily harm, permanent disability, or permanent
30 disfigurement to a juvenile offender, commits a misdemeanor of
31 the first degree, punishable as provided in s. 775.082 or s.
32 775.083.

33 (b) Any employee who, with malicious intent, inflicts cruel
34 or inhuman treatment by neglect or otherwise, and in so doing
35 causes great bodily harm, permanent disability, or permanent
36 disfigurement to a juvenile offender, commits a felony of the
37 third degree, punishable as provided in s. 775.082, s. 775.083,
38 or s. 775.084.

39 (c) Notwithstanding prosecution, any violation of
40 paragraphs (a) or (b), as determined by the Public Employees
41 Relations Commission, constitutes sufficient cause under s.
42 110.227 for dismissal from employment with the department, and
43 such person may not again be employed in any capacity in
44 connection with the juvenile justice system.

45 (3) An employee who witnesses the infliction of cruel or
46 inhuman treatment committed against a juvenile offender shall
47 immediately report the incident to the department's incident
48 hotline, and prepare, date, and sign an independent report that

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49 specifically describes the nature of the incident, the location
50 and time of the incident, and the persons involved. The employee
51 shall deliver the report to the employee's supervisor or program
52 director, who must provide copies to the department's inspector
53 general and the circuit juvenile justice manager. The inspector
54 general shall immediately conduct an appropriate administrative
55 investigation, and, if there is probable cause to believe that a
56 violation of subsection (2) has occurred, the inspector general
57 shall notify the state attorney in the circuit in which the
58 incident occurred.

59 (4) (a) Any person who is required to prepare a report under
60 this section who knowingly or willfully fails to do so, or who
61 knowingly or willfully prevents another person from doing so,
62 commits a misdemeanor of the first degree, punishable as
63 provided in s. 775.082 or s. 775.083.

64 (b) Any person who knowingly or willfully submits
65 inaccurate, incomplete, or untruthful information with respect
66 to a report required under this section commits a misdemeanor of
67 the first degree, punishable as provided in s. 775.082 or s.
68 775.083.

69 (c) Any person who knowingly or willfully coerces or
70 threatens any other person with the intent to alter testimony or
71 a written report regarding an incident of the infliction of
72 cruel or inhuman treatment commits a felony of the third degree,
73 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

74 Section 2. Paragraph (a) of subsection (1) of section
75 985.701, Florida Statutes, is amended to read:

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76 985.701 Sexual misconduct prohibited; reporting required;
77 penalties.—

78 (1) (a) 1. As used in this subsection, the term:

79 a. "Sexual misconduct" means fondling the genital area,
80 groin, inner thighs, buttocks, or breasts of a person; the oral,
81 anal, or vaginal penetration by or union with the sexual organ
82 of another; or the anal or vaginal penetration of another by any
83 other object. The term does not include an act done for a bona
84 fide medical purpose or an internal search conducted in the
85 lawful performance of duty by an employee of the department or
86 an employee of a provider under contract with the department.

87 b. "Employee" includes paid staff members, volunteers, and
88 interns who work in a department program or a program operated
89 by a provider under a contract.

90 c. "Juvenile offender" means any person of any age who is
91 detained or supervised by, or committed to the custody of, the
92 department.

93 2. An employee who engages in sexual misconduct with a
94 juvenile offender detained or supervised by, or committed to the
95 custody of, the department commits a felony of the second
96 degree, punishable as provided in s. 775.082, s. 775.083, or s.
97 775.084. An employee may be found guilty of violating this
98 subsection without having committed the crime of sexual battery.

99 3. The consent of the juvenile offender to any act of
100 sexual misconduct is not a defense to prosecution under this
101 subsection.

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102 4. This subsection does not apply to an employee of the
103 department, or an employee of a provider under contract with the
104 department, who:

105 a. Is legally married to a juvenile offender who is
106 detained or supervised by, or committed to the custody of, the
107 department.

108 b. Has no reason to believe that the person with whom the
109 employee engaged in sexual misconduct is a juvenile offender
110 detained or supervised by, or committed to the custody of, the
111 department.

112 Section 3. This act shall take effect upon becoming law.
113
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116 **T I T L E A M E N D M E N T**

117 Remove everything before the enacting clause and insert:
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119 A bill to be entitled

120 An act relating to juvenile justice; creating s. 985.702, F.S.;
121 providing definitions; prohibiting employees from inflicting
122 cruel or inhuman treatment by neglect that does not result in
123 great bodily harm, permanent disability or permanent
124 disfigurement to a juvenile offender; prohibiting employees from
125 inflicting cruel or inhuman treatment by neglect resulting in
126 great bodily harm, permanent disability or permanent
127 disfigurement to a juvenile offender; providing criminal
128 penalties; creating reporting requirements; providing criminal

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129 penalties; amending s. 985.701, F.S.; adding a definition of
130 "juvenile offender"; providing an effective date.

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