

By Senator Sobel

33-01419-14

20141404__

1 A bill to be entitled
2 An act relating to juvenile sexual abuse; amending s.
3 39.01, F.S.; redefining the terms "alleged juvenile
4 sexual offender," "juvenile sexual abuse," and "child
5 who has exhibited inappropriate sexual behavior";
6 amending s. 39.201, F.S.; requiring that an alleged
7 incident of juvenile sexual abuse involving a child
8 who is in the custody or protective supervision of the
9 Department of Children and Families be reported to the
10 department's central abuse hotline; requiring the
11 department to determine if a child included in the
12 report is known to the department; requiring the
13 department to follow specified procedures if a child
14 is known to the department; requiring the department
15 to follow specified procedures if a child is not known
16 to the department; conforming provisions to changes
17 made by the act; amending s. 39.307, F.S.; requiring
18 the department to assist a family in receiving
19 appropriate services to address a report that alleges
20 inappropriate sexual behavior; requiring Children's
21 Legal Services to notify all parties to the dependency
22 proceeding if a child involved in a report of child-
23 on-child sexual abuse is known to the department;
24 requiring the department to create a system to
25 identify and track the provision of specified
26 services; providing requirements for the system;
27 requiring persons who make placement decisions to
28 consult the information in the system; requiring the
29 department to monitor the number of children in out-

33-01419-14

20141404__

30 of-home care or under supervision of the court who are
31 victims of juvenile sexual abuse; conforming
32 provisions to changes made by the act; amending s.
33 985.04, F.S.; conforming a provision to changes made
34 by the act; providing an effective date.

35
36 Be It Enacted by the Legislature of the State of Florida:

37
38 Section 1. Subsections (7) and (14) of section 39.01,
39 Florida Statutes, are amended to read:

40 39.01 Definitions.—When used in this chapter, unless the
41 context otherwise requires:

42 (7) ~~“Alleged juvenile sexual offender” means:~~

43 ~~(a) A child 12 years of age or younger who is alleged to~~
44 ~~have committed a violation of chapter 794, chapter 796, chapter~~
45 ~~800, s. 827.071, or s. 847.0133; or~~

46 ~~(b) A child who is alleged to have committed any violation~~
47 ~~of law or delinquent act involving juvenile sexual abuse.~~

48 “Juvenile sexual abuse” means any sexual behavior which occurs
49 without consent, without equality, or as a result of coercion.
50 For purposes of this subsection ~~paragraph~~, the term ~~following~~
51 ~~definitions apply:~~

52 (a)1. “Coercion” means the exploitation of authority or the
53 use of bribes, threats of force, or intimidation to gain
54 cooperation or compliance.

55 (c)2. “Equality” means two participants operating with the
56 same level of power in a relationship, neither being controlled
57 nor coerced by the other.

58 (b)3. “Consent” means an agreement, including all of the

33-01419-14

20141404__

59 following:

60 1.a. Understanding what is proposed based on age, maturity,
61 developmental level, functioning, and experience.

62 2.b. Knowledge of societal standards for what is being
63 proposed.

64 3.e. Awareness of potential consequences and alternatives.

65 4.d. Assumption that agreement or disagreement will be
66 accepted equally.

67 5.e. Voluntary decision.

68 6.f. Mental competence.

69

70 Juvenile sexual abuse ~~offender~~ behavior ranges from noncontact
71 sexual behavior such as making obscene phone calls,
72 exhibitionism, voyeurism, and the showing or taking of lewd
73 photographs to varying degrees of direct sexual contact, such as
74 frottage, fondling, digital penetration, rape, fellatio, sodomy,
75 and various other sexually aggressive acts.

76 (14) "Child who has exhibited inappropriate sexual
77 behavior" means a child ~~who is 12 years of age or younger and~~
78 who has been found by the department or the court to have
79 committed an inappropriate sexual act.

80 Section 2. Paragraph (c) of subsection (2) of section
81 39.201, Florida Statutes, is amended to read:

82 39.201 Mandatory reports of child abuse, abandonment, or
83 neglect; mandatory reports of death; central abuse hotline.—

84 (2)

85 (c) Reports involving a ~~known or suspected~~ juvenile sexual
86 abuse ~~offender~~ or a child who has exhibited inappropriate sexual
87 behavior shall be made and received by the department. An

33-01419-14

20141404__

88 alleged incident of juvenile sexual abuse involving a child who
89 is in the custody or protective supervision of the department
90 shall be reported to the department's central abuse hotline.

91 1. The department shall determine whether a child included
92 in the report is known to the department ~~the age of the alleged~~
93 ~~offender, if known.~~

94 2. If a child is known to the department, the department's
95 central abuse hotline must inform Children's Legal Services of
96 the allegation so that it can promptly advise the court and
97 parties to the chapter 39 proceeding. The department's central
98 abuse hotline shall immediately electronically transfer the
99 report or call to the county sheriff's office. The department
100 shall conduct an assessment and assist the child in receiving
101 appropriate services pursuant to s. 39.307 and send a written
102 report of the allegation to the appropriate county sheriff's
103 office within 48 hours after the initial report is made to the
104 department's central abuse hotline.

105 ~~3.2.~~ If the child is not known to the department ~~alleged~~
106 ~~offender is 12 years of age or younger,~~ the central abuse
107 hotline shall immediately electronically transfer the report or
108 call to the county sheriff's office. The department shall
109 conduct an assessment and assist the family in receiving
110 appropriate services pursuant to s. 39.307, and send a written
111 report of the allegation to the appropriate county sheriff's
112 office within 48 hours after the initial report is made to the
113 central abuse hotline.

114 ~~3. If the alleged offender is 13 years of age or older, the~~
115 ~~central abuse hotline shall immediately electronically transfer~~
116 ~~the report or call to the appropriate county sheriff's office~~

33-01419-14

20141404__

117 ~~and send a written report to the appropriate county sheriff's~~
118 ~~office within 48 hours after the initial report to the central~~
119 ~~abuse hotline.~~

120 Section 3. Section 39.307, Florida Statutes, is amended to
121 read:

122 39.307 Reports of child-on-child sexual abuse.—

123 (1) Upon receiving a report alleging juvenile sexual abuse
124 or inappropriate sexual behavior as those terms are defined in
125 s. 39.01(7), the department shall assist the family in receiving
126 appropriate services to address the allegations of the report.
127 If a child involved in the report is known to the department,
128 Children's Legal Services shall promptly notify all parties to
129 the dependency proceeding that a report was received.

130 (a) The department shall create a unified system in the
131 department's Florida Safe Families Network to identify and track
132 the provision of services to children who have been the victims
133 of sexual abuse, juvenile sexual abuse, or who have displayed
134 inappropriate sexual behaviors. This system must not stigmatize
135 children.

136 (b) Accurate information concerning a child's history of
137 abuse and behavior must be included in the system created in
138 paragraph (a). Persons making placement decisions for a child
139 must consult this information and, if necessary, seek expert
140 assistance to determine which type of placement is safe and
141 appropriate for the child.

142 (c) The department shall monitor the number of children in
143 out-of-home care or under supervision of the court who are
144 victims of juvenile sexual abuse.

145 (2) The department, contracted sheriff's office providing

33-01419-14

20141404__

146 protective investigation services, or contracted case management
147 personnel responsible for providing services, at a minimum,
148 shall adhere to the following procedures:

149 (a) The purpose of the response to a report alleging
150 juvenile sexual abuse or inappropriate sexual behavior shall be
151 explained to the caregiver.

152 1. The purpose of the response shall be explained in a
153 manner consistent with legislative purpose and intent provided
154 in this chapter.

155 2. The name and office telephone number of the person
156 responding shall be provided to the caregiver of the alleged
157 abuser ~~juvenile sexual offender~~ or child who has exhibited
158 inappropriate sexual behavior and the victim's caregiver.

159 3. The possible consequences of the department's response,
160 including outcomes and services, shall be explained to the
161 caregiver of the alleged abuser ~~juvenile sexual offender~~ or
162 child who has exhibited inappropriate sexual behavior and the
163 victim's caregiver.

164 (b) The caregiver of the alleged abuser ~~juvenile sexual~~
165 ~~offender~~ or child who has exhibited inappropriate sexual
166 behavior and the victim's caregiver shall be involved to the
167 fullest extent possible in determining the nature of the sexual
168 behavior concerns and the nature of any problem or risk to other
169 children.

170 (c) The assessment of risk and the perceived treatment
171 needs of the alleged abuser ~~juvenile sexual offender~~ or child
172 who has exhibited inappropriate sexual behavior, the victim, and
173 respective caregivers shall be conducted by the district staff,
174 the child protection team of the Department of Health, and other

33-01419-14

20141404__

175 providers under contract with the department to provide services
176 to the caregiver of the alleged offender, the victim, and the
177 victim's caregiver.

178 (d) The assessment shall be conducted in a manner that is
179 sensitive to the social, economic, and cultural environment of
180 the family.

181 (e) If necessary, the child protection team of the
182 Department of Health shall conduct a physical examination of the
183 victim, which is sufficient to meet forensic requirements.

184 (f) Based on the information obtained from the alleged
185 abuser ~~juvenile sexual offender~~ or child who has exhibited
186 inappropriate sexual behavior, his or her caregiver, the victim,
187 and the victim's caregiver, an assessment of service and
188 treatment needs must be completed and, if needed, a case plan
189 developed within 30 days.

190 (g) The department shall classify the outcome of the report
191 as follows:

192 1. Report closed. Services were not offered because the
193 department determined that there was no basis for intervention.

194 2. Services accepted by alleged abuser ~~juvenile sexual~~
195 ~~offender~~. Services were offered to the alleged abuser ~~juvenile~~
196 ~~sexual offender~~ or child who has exhibited inappropriate sexual
197 behavior and accepted by the caregiver.

198 3. Report closed. Services were offered to the alleged
199 abuser ~~juvenile sexual offender~~ or child who has exhibited
200 inappropriate sexual behavior, but were rejected by the
201 caregiver.

202 4. Notification to law enforcement. The risk to the
203 victim's safety and well-being cannot be reduced by the

33-01419-14

20141404__

204 provision of services or the caregiver rejected services, and
205 notification of the alleged delinquent act or violation of law
206 to the appropriate law enforcement agency was initiated.

207 5. Services accepted by victim. Services were offered to
208 the victim and accepted by the caregiver.

209 6. Report closed. Services were offered to the victim but
210 were rejected by the caregiver.

211 (3) If services have been accepted by the alleged abuser
212 ~~juvenile sexual offender~~ or child who has exhibited
213 inappropriate sexual behavior, the victim, and respective
214 caregivers, the department shall designate a case manager and
215 develop a specific case plan.

216 (a) Upon receipt of the plan, the caregiver shall indicate
217 its acceptance of the plan in writing.

218 (b) The case manager shall periodically review the progress
219 toward achieving the objectives of the plan in order to:

220 1. Make adjustments to the plan or take additional action
221 as provided in this part; or

222 2. Terminate the case if indicated by successful or
223 substantial achievement of the objectives of the plan.

224 (4) Services provided to the alleged abuser ~~juvenile sexual~~
225 ~~offender~~ or child who has exhibited inappropriate sexual
226 behavior, the victim, and respective caregivers or family must
227 be voluntary and of necessary duration.

228 (5) If the family or caregiver of the alleged abuser
229 ~~juvenile sexual offender~~ or child who has exhibited
230 inappropriate sexual behavior fails to adequately participate or
231 allow for the adequate participation of the child in the
232 services or treatment delineated in the case plan, the case

33-01419-14

20141404__

233 manager may recommend that the department:

234 (a) Close the case;

235 (b) Refer the case to mediation or arbitration, if
236 available; or

237 (c) Notify the appropriate law enforcement agency of
238 failure to comply.

239 (6) At any time, as a result of additional information,
240 findings of facts, or changing conditions, the department may
241 pursue a child protective investigation as provided in this
242 chapter.

243 (7) The department may ~~is authorized to~~ develop rules and
244 other policy directives ~~necessary to administer~~ implement the
245 ~~provisions of~~ this section.

246 Section 4. Paragraph (d) of subsection (4) of section
247 985.04, Florida Statutes, is amended to read:

248 985.04 Oaths; records; confidential information.-

249 (4)

250 (d) The department shall disclose to the school
251 superintendent the presence of any child in the care and custody
252 or under the jurisdiction or supervision of the department who
253 has a known history of criminal sexual behavior with other
254 juveniles; is an alleged to have committed juvenile sexual abuse
255 ~~offender,~~ as defined in s. 39.01; or has pled guilty or nolo
256 contendere to, or has been found to have committed, a violation
257 of chapter 794, chapter 796, chapter 800, s. 827.071, or s.
258 847.0133, regardless of adjudication. Any employee of a district
259 school board who knowingly and willfully discloses such
260 information to an unauthorized person commits a misdemeanor of
261 the second degree, punishable as provided in s. 775.082 or s.

33-01419-14

20141404__

262 775.083.

263 Section 5. This act shall take effect July 1, 2014.