

By the Committee on Health Policy; and Senators Bradley and Sobel

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1 A bill to be entitled
2 An act relating to child protection; amending s.
3 39.303, F.S.; requiring the Statewide Medical Director
4 for Child Protection and the district medical
5 directors to hold certain qualifications; amending s.
6 458.3175, F.S.; authorizing a physician with an expert
7 witness certificate to provide expert testimony in a
8 criminal child abuse case; reenacting ss. 39.3031 and
9 391.026(2), F.S., relating to rules of implementation
10 of s. 39.303, F.S., and powers and duties of the
11 Department of Health, respectively, to incorporate the
12 amendment made to s. 39.303, F.S., in references
13 thereto; reenacting ss. 776.102(12), 827.03(3)(a) and
14 (b), and 960.03(3)(a), F.S., relating to expert
15 witnesses, expert testimony, and the definition of the
16 term "crime," respectively, to incorporate the
17 amendment made to s. 458.3175, F.S., in references
18 thereto; providing an effective date.

19
20 Be It Enacted by the Legislature of the State of Florida:

21
22 Section 1. Section 39.303, Florida Statutes, is amended to
23 read:

24 39.303 Child protection teams; services; eligible cases.—
25 The Children's Medical Services Program in the Department of
26 Health shall develop, maintain, and coordinate the services of
27 one or more multidisciplinary child protection teams in each of
28 the service districts of the Department of Children and
29 Families. Such teams may be composed of appropriate

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30 representatives of school districts and appropriate health,
31 mental health, social service, legal service, and law
32 enforcement agencies. The Department of Health and the
33 Department of Children and Families shall maintain an
34 interagency agreement that establishes protocols for oversight
35 and operations of child protection teams and sexual abuse
36 treatment programs. The State Surgeon General and the Deputy
37 Secretary for Children's Medical Services, in consultation with
38 the Secretary of Children and Families, shall maintain the
39 responsibility for the screening, employment, and, if necessary,
40 the termination of child protection team medical directors, at
41 headquarters and in the 15 districts. The Statewide Medical
42 Director for Child Protection at all times must be a physician
43 licensed under chapter 458 or chapter 459 who is board certified
44 in pediatrics with a subspecialty certification in child abuse
45 from the American Board of Pediatrics. Each district medical
46 director must be a physician licensed under chapter 458 or
47 chapter 459 who is board certified in pediatrics and, within 2
48 years after the date of his or her employment as district
49 medical director, must obtain a subspecialty certification in
50 child abuse from the American Board of Pediatrics or a
51 certificate issued by the Deputy Secretary for Children's
52 Medical Services in recognition of demonstrated specialized
53 competence in child abuse. Child protection team medical
54 directors shall be responsible for oversight of the teams in the
55 districts.

56 (1) The Department of Health shall use and convene the
57 teams to supplement the assessment and protective supervision
58 activities of the family safety and preservation program of the

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59 Department of Children and Families. This section does not
60 remove or reduce the duty and responsibility of any person to
61 report pursuant to this chapter all suspected or actual cases of
62 child abuse, abandonment, or neglect or sexual abuse of a child.
63 The role of the teams shall be to support activities of the
64 program and to provide services deemed by the teams to be
65 necessary and appropriate to abused, abandoned, and neglected
66 children upon referral. The specialized diagnostic assessment,
67 evaluation, coordination, consultation, and other supportive
68 services that a child protection team shall be capable of
69 providing include, but are not limited to, the following:

70 (a) Medical diagnosis and evaluation services, including
71 provision or interpretation of X rays and laboratory tests, and
72 related services, as needed, and documentation of related
73 findings.

74 (b) Telephone consultation services in emergencies and in
75 other situations.

76 (c) Medical evaluation related to abuse, abandonment, or
77 neglect, as defined by policy or rule of the Department of
78 Health.

79 (d) Such psychological and psychiatric diagnosis and
80 evaluation services for the child or the child's parent or
81 parents, legal custodian or custodians, or other caregivers, or
82 any other individual involved in a child abuse, abandonment, or
83 neglect case, as the team may determine to be needed.

84 (e) Expert medical, psychological, and related professional
85 testimony in court cases.

86 (f) Case staffings to develop treatment plans for children
87 whose cases have been referred to the team. A child protection

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88 team may provide consultation with respect to a child who is
89 alleged or is shown to be abused, abandoned, or neglected, which
90 consultation shall be provided at the request of a
91 representative of the family safety and preservation program or
92 at the request of any other professional involved with a child
93 or the child's parent or parents, legal custodian or custodians,
94 or other caregivers. In every such child protection team case
95 staffing, consultation, or staff activity involving a child, a
96 family safety and preservation program representative shall
97 attend and participate.

98 (g) Case service coordination and assistance, including the
99 location of services available from other public and private
100 agencies in the community.

101 (h) Such training services for program and other employees
102 of the Department of Children and Families, employees of the
103 Department of Health, and other medical professionals as is
104 deemed appropriate to enable them to develop and maintain their
105 professional skills and abilities in handling child abuse,
106 abandonment, and neglect cases.

107 (i) Educational and community awareness campaigns on child
108 abuse, abandonment, and neglect in an effort to enable citizens
109 more successfully to prevent, identify, and treat child abuse,
110 abandonment, and neglect in the community.

111 (j) Child protection team assessments that include, as
112 appropriate, medical evaluations, medical consultations, family
113 psychosocial interviews, specialized clinical interviews, or
114 forensic interviews.

115
116 All medical personnel participating on a child protection team

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117 must successfully complete the required child protection team
118 training curriculum as set forth in protocols determined by the
119 Deputy Secretary for Children's Medical Services and the
120 Statewide Medical Director for Child Protection. A child
121 protection team that is evaluating a report of medical neglect
122 and assessing the health care needs of a medically complex child
123 shall consult with a physician who has experience in treating
124 children with the same condition.

125 (2) The child abuse, abandonment, and neglect reports that
126 must be referred by the department to child protection teams of
127 the Department of Health for an assessment and other appropriate
128 available support services as set forth in subsection (1) must
129 include cases involving:

130 (a) Injuries to the head, bruises to the neck or head,
131 burns, or fractures in a child of any age.

132 (b) Bruises anywhere on a child 5 years of age or under.

133 (c) Any report alleging sexual abuse of a child.

134 (d) Any sexually transmitted disease in a prepubescent
135 child.

136 (e) Reported malnutrition of a child and failure of a child
137 to thrive.

138 (f) Reported medical neglect of a child.

139 (g) Any family in which one or more children have been
140 pronounced dead on arrival at a hospital or other health care
141 facility, or have been injured and later died, as a result of
142 suspected abuse, abandonment, or neglect, when any sibling or
143 other child remains in the home.

144 (h) Symptoms of serious emotional problems in a child when
145 emotional or other abuse, abandonment, or neglect is suspected.

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146 (3) All abuse and neglect cases transmitted for
147 investigation to a district by the hotline must be
148 simultaneously transmitted to the Department of Health child
149 protection team for review. For the purpose of determining
150 whether face-to-face medical evaluation by a child protection
151 team is necessary, all cases transmitted to the child protection
152 team which meet the criteria in subsection (2) must be timely
153 reviewed by:

154 (a) A physician licensed under chapter 458 or chapter 459
155 who holds board certification in pediatrics and is a member of a
156 child protection team;

157 (b) A physician licensed under chapter 458 or chapter 459
158 who holds board certification in a specialty other than
159 pediatrics, who may complete the review only when working under
160 the direction of a physician licensed under chapter 458 or
161 chapter 459 who holds board certification in pediatrics and is a
162 member of a child protection team;

163 (c) An advanced registered nurse practitioner licensed
164 under chapter 464 who has a specialty in pediatrics or family
165 medicine and is a member of a child protection team;

166 (d) A physician assistant licensed under chapter 458 or
167 chapter 459, who may complete the review only when working under
168 the supervision of a physician licensed under chapter 458 or
169 chapter 459 who holds board certification in pediatrics and is a
170 member of a child protection team; or

171 (e) A registered nurse licensed under chapter 464, who may
172 complete the review only when working under the direct
173 supervision of a physician licensed under chapter 458 or chapter
174 459 who holds certification in pediatrics and is a member of a

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175 child protection team.

176 (4) A face-to-face medical evaluation by a child protection
177 team is not necessary when:

178 (a) The child was examined for the alleged abuse or neglect
179 by a physician who is not a member of the child protection team,
180 and a consultation between the child protection team board-
181 certified pediatrician, advanced registered nurse practitioner,
182 physician assistant working under the supervision of a child
183 protection team board-certified pediatrician, or registered
184 nurse working under the direct supervision of a child protection
185 team board-certified pediatrician, and the examining physician
186 concludes that a further medical evaluation is unnecessary;

187 (b) The child protective investigator, with supervisory
188 approval, has determined, after conducting a child safety
189 assessment, that there are no indications of injuries as
190 described in paragraphs (2) (a)-(h) as reported; or

191 (c) The child protection team board-certified pediatrician,
192 as authorized in subsection (3), determines that a medical
193 evaluation is not required.

194

195 Notwithstanding paragraphs (a), (b), and (c), a child protection
196 team pediatrician, as authorized in subsection (3), may
197 determine that a face-to-face medical evaluation is necessary.

198 (5) In all instances in which a child protection team is
199 providing certain services to abused, abandoned, or neglected
200 children, other offices and units of the Department of Health,
201 and offices and units of the Department of Children and
202 Families, shall avoid duplicating the provision of those
203 services.

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204 (6) The Department of Health child protection team quality
205 assurance program and the Family Safety Program Office of the
206 Department of Children and Families shall collaborate to ensure
207 referrals and responses to child abuse, abandonment, and neglect
208 reports are appropriate. Each quality assurance program shall
209 include a review of records in which there are no findings of
210 abuse, abandonment, or neglect, and the findings of these
211 reviews shall be included in each department's quality assurance
212 reports.

213 Section 2. Paragraph (c) is added to subsection (2) of
214 section 458.3175, Florida Statutes, to read:

215 458.3175 Expert witness certificate.—

216 (2) An expert witness certificate authorizes the physician
217 to whom the certificate is issued to do only the following:

218 (c) Provide expert testimony in a criminal child abuse case
219 in this state.

220 Section 3. For the purpose of incorporating the amendment
221 made by this act to section 39.303, Florida Statutes, in a
222 reference thereto, section 39.3031, Florida Statutes, is
223 reenacted to read:

224 39.3031 Rules for implementation of s. 39.303.—The
225 Department of Health, in consultation with the Department of
226 Children and Families, shall adopt rules governing the child
227 protection teams pursuant to s. 39.303, including definitions,
228 organization, roles and responsibilities, eligibility, services
229 and their availability, qualifications of staff, and a waiver-
230 request process.

231 Section 4. For the purpose of incorporating the amendment
232 made by this act to section 39.303, Florida Statutes, in a

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233 reference thereto, subsection (2) of section 391.026, Florida
234 Statutes, is reenacted to read:

235 391.026 Powers and duties of the department.—The department
236 shall have the following powers, duties, and responsibilities:

237 (2) To provide services to abused and neglected children
238 through child protection teams pursuant to s. 39.303.

239 Section 5. For the purpose of incorporating the amendment
240 made by this act to section 458.3175, Florida Statutes, in a
241 reference thereto, subsection (12) of section 766.102, Florida
242 Statutes, is reenacted to read:

243 766.102 Medical negligence; standards of recovery; expert
244 witness.—

245 (12) If a physician licensed under chapter 458 or chapter
246 459 or a dentist licensed under chapter 466 is the party against
247 whom, or on whose behalf, expert testimony about the prevailing
248 professional standard of care is offered, the expert witness
249 must be licensed under chapter 458, chapter 459, or chapter 466
250 or possess a valid expert witness certificate issued under s.
251 458.3175, s. 459.0066, or s. 466.005.

252 Section 6. For the purpose of incorporating the amendment
253 made by this act to section 458.3175, Florida Statutes, in a
254 reference thereto, paragraphs (a) and (b) of subsection (3) of
255 section 827.03, Florida Statutes, are reenacted to read:

256 827.03 Abuse, aggravated abuse, and neglect of a child;
257 penalties.—

258 (3) EXPERT TESTIMONY.—

259 (a) Except as provided in paragraph (b), a physician may
260 not provide expert testimony in a criminal child abuse case
261 unless the physician is a physician licensed under chapter 458

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262 or chapter 459 or has obtained certification as an expert
263 witness pursuant to s. 458.3175.

264 (b) A physician may not provide expert testimony in a
265 criminal child abuse case regarding mental injury unless the
266 physician is a physician licensed under chapter 458 or chapter
267 459 who has completed an accredited residency in psychiatry or
268 has obtained certification as an expert witness pursuant to s.
269 458.3175.

270 Section 7. For the purpose of incorporating the amendment
271 made by this act to section 458.3175, Florida Statutes, in a
272 reference thereto, paragraph (a) of subsection (3) of section
273 960.03, Florida Statutes, is reenacted to read:

274 960.03 Definitions; ss. 960.01-960.28.—As used in ss.
275 960.01-960.28, unless the context otherwise requires, the term:

276 (3) "Crime" means:

277 (a) A felony or misdemeanor offense committed by an adult
278 or a juvenile which results in physical injury or death, or a
279 felony or misdemeanor offense of child abuse committed by an
280 adult or a juvenile which results in a mental injury, as defined
281 in s. 827.03, to a person younger than 18 years of age who was
282 not physically injured by the criminal act. The mental injury to
283 the minor must be verified by a psychologist licensed under
284 chapter 490, by a physician licensed in this state under chapter
285 458 or chapter 459 who has completed an accredited residency in
286 psychiatry, or by a physician who has obtained certification as
287 an expert witness pursuant to s. 458.3175. The term also
288 includes a criminal act that is committed within this state but
289 that falls exclusively within federal jurisdiction.

290 Section 8. This act shall take effect July 1, 2015.