

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Children, Families, and Elder Affairs

BILL: SB 318

INTRODUCER: Senator Montford

SUBJECT: Child Abuse, Abandonment, and Neglect

DATE: February 18, 2019

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Preston	Hendon	CF	Pre-meeting
2.			ED	
3.			RC	

I. Summary:

SB 318 amends the laws relating to child abuse, neglect and abandonment reporting and confidentiality of records. Specifically the bill:

- Provides that any instructional personnel as defined in s. 1012.01(2), F.S., school administrator as defined in s. 1012.01(3)(c), F.S., and educational support employee as defined in s.1012(6)(a), F.S., who has complied with school or district policy in reporting or providing information, is considered a reporter for purposes of confidentiality.
- Requires that any information that would identify a reporter of child abuse, abandonment or neglect remain confidential under certain circumstances.

The bill has no impact on state or local government and has an effective date of July 1, 2019.

II. Present Situation:

Mandatory Reporting of Child Abuse, Abandonment and Neglect

Current law requires that any individual who knows, or who has reasonable cause to suspect, that a child is being abused, abandoned or neglected by a caregiver to report that knowledge to the department's central abuse hotline. Any known or suspected child abuse by a non-caregiver and sexual abuse of a child is also required to be reported. Reporters in a number of occupational categories are required to provide their names to the hotline, including a:

- Physician, osteopathic physician, medical examiner, chiropractic physician, nurse, or hospital personnel engaged in the admission, examination, care, or treatment of persons;
- Health or mental health professional other than one listed above;
- Practitioner who relies solely on spiritual means for healing;
- School teacher or other school official or personnel;
- Social worker, day care center worker, or other professional child care, foster care, residential, or institutional worker;

- Law enforcement officer; or
- Judge.

There is currently no exception to the reporting requirement that allows for school-level or districtwide school policies that are contrary to the law.

Failure to Report

Current law provides that a person who is required to report known or suspected child abuse, abandonment, or neglect and who knowingly and willfully fails to do so, or who knowingly and willfully prevents another person from doing so, commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.¹

Confidentiality of Records

Section 39.202, F.S., currently provides that the names of reporters of known or suspected child abuse, abandonment or neglect to the central abuse hotline shall be entered into the record of the report, but shall be held confidential and exempt from disclosure. There are currently no provisions in statute for protecting the identifying information of any individual who has made a report to the central abuse hotline or is identified in an investigation.

Nonetheless, the Department of Children and Families' (DCF or department) operating procedures contain additional protections for ensuring confidentiality. In addition to redaction of the reporter's name from released records, any summary information released from the record shall be in narrative form and shall "not include the name or other identifying information with respect to any person identified in any investigation." To further prevent inadvertent disclosure of confidential information, the procedure also prohibits the department from attaching "any investigation record documents" to the narrative summary.²

III. Effect of Proposed Changes:

Section 1 amends s. 39.201, F.S., to emphasize that any instructional personnel as defined in s. 1012.01(2), F.S., school administrator as defined in s. 1012.01(3)(c), F.S., and educational support employee as defined in s.1012(6)(a), F.S., who has complied with school or district policy in reporting or providing information, is considered a reporter for purposes of confidentiality. This would appear to create an exception to the reporting requirements.

Section 2 amends s. 39.202, F.S., to require that any information that would identify a reporter of child abuse, abandonment or neglect remain confidential under certain circumstances.

¹ Section 39.205, F.S.

²Department of Children and Families Operating Procedure, CFOP 15-12, "Procedures For Releasing Selected Information Pertaining To A Report Of Abuse, Neglect, Exploitation Or Abandonment Of A Child Or Adult," available at: <http://www.dcf.state.fl.us/admin/publications/cfops/CFOP%20015-xx%20Documentation%20Management/CFOP%2015-12.%20Procedures%20for%20Releasing%20Selected%20Information%20Pertaining%20to%20a%20Report%20of%20Abuse.%20Neglect.%20Exploitation%20or%20Abandonment%20of%20a%20Child%20or%20Adult.pdf> (Last visited February 13, 2019).

Section 3 provides an effective date of July 1, 2019.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

The bill appears to have a public records issue that may need to be addressed.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

No analysis from the Department of Education or the School Board Association was received to provide additional information on the impact of the bill.

VIII. Statutes Affected:

The bill amends ss. 39.201 and 39.202 of the Florida Statutes.

IX. Additional Information:

- A. **Committee Substitute – Statement of Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

- B. **Amendments:**

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.
