

By Senator Leek

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A bill to be entitled
An act relating to child welfare; amending s. 39.01, F.S.; defining the term "incapacitated"; amending s. 39.0139, F.S.; revising legislative findings and intent; providing a rebuttable presumption of detriment to a child under certain circumstances; requiring that certain visitation or contact be supervised by a person who has received certain training; amending s. 39.402, F.S.; requiring that a shelter hearing take place within a specified period under certain circumstances; requiring that certain children placed in a shelter be referred to a provider of trauma-informed therapeutic services; amending ss. 39.302, 394.495, 934.255, 960.065, and 984.03, F.S.; conforming cross-references; providing an effective date.

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

Section 1. Present subsections (39) through (91) of section 39.01, Florida Statutes, are redesignated as subsections (40) through (92), respectively, a new subsection (39) is added to that section, and subsection (10) and present subsection (39) 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, permanent guardian, adult household member, or other person responsible for a child's welfare as defined in subsection (58)

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30 ~~(57)~~.

31 (39) "Incapacitated" means a person determined by a
32 licensed physician or other qualified professional to be unable
33 to care for his or her child because of mental, physical, or
34 other incapacity that prevents him or her from making informed
35 decisions regarding the child's welfare, including, but not
36 limited to, the child's health and safety.

37 ~~(40)(39)~~ "Institutional child abuse or neglect" means
38 situations of known or suspected child abuse or neglect in which
39 the person allegedly perpetrating the child abuse or neglect is
40 an employee of a public or private school, public or private day
41 care center, residential home, institution, facility, or agency
42 or any other person at such institution responsible for the
43 child's welfare as defined in subsection (58) ~~(57)~~.

44 Section 2. Subsection (2), paragraph (a) of subsection (3),
45 and subsection (5) of section 39.0139, Florida Statutes, are
46 amended to read:

47 39.0139 Visitation or other contact; restrictions.—

48 (2) LEGISLATIVE FINDINGS AND INTENT.—

49 (a) The Legislature finds that:

50 1. For some children who are abused, abandoned, or
51 neglected by a parent or other caregiver, abuse may include
52 sexual abuse, parricide, or attempted parricide.

53 2. These same children are at risk of suffering from
54 further harm during visitation or other contact.

55 3. Visitation or other contact with the child may be used
56 to influence the child's testimony.

57 (b) It is the intent of the Legislature to protect children
58 and reduce the risk of further harm to children who have been

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sexually abused or exploited by a parent or other caregiver, or
whose parent or legal custodian has been killed or incapacitated
by a parent or other caregiver, by placing additional
requirements on judicial determinations related to contact
between a parent or caregiver who meets the criteria under
paragraph (3)(a) and a child victim in any proceeding pursuant
to this chapter.

(3) PRESUMPTION OF DETRIMENT.—

(a) A rebuttable presumption of detriment to a child is
created when:

1. A court of competent jurisdiction has found probable
cause exists that a parent or caregiver has sexually abused a
child as defined in s. 39.01;

2. A parent or caregiver has been found guilty of,
regardless of adjudication, or has entered a plea of guilty or
nolo contendere to, charges under the following statutes or
substantially similar statutes of other jurisdictions:

a. Section 787.04, relating to removing minors from the
state or concealing minors contrary to court order;

b. Section 794.011, relating to sexual battery;

c. Section 798.02, relating to lewd and lascivious
behavior;

d. Chapter 800, relating to lewdness and indecent exposure;

e. Section 826.04, relating to incest; or

f. Chapter 827, relating to the abuse of children; or

3. A court of competent jurisdiction has determined a
parent or caregiver to be a sexual predator as defined in s.
775.21 or a parent or caregiver has received a substantially
similar designation under laws of another jurisdiction.

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88 4. A parent or caregiver is arrested for an offense under
89 s. 782.04 or s. 782.07 when the victim of the offense is the
90 child's other parent or legal custodian.

91 5. A parent or caregiver is arrested for an offense under
92 ss. 782.04 and 777.04, relating to attempted murder; ss. 782.051
93 and 777.04, relating to attempted felony murder; or ss. 782.07
94 and 777.04, relating to attempted manslaughter, when the victim
95 of the offense is the child's other parent or legal custodian
96 and the offense has rendered the victim incapacitated.

97 (5) CONDITIONS.—Any visitation or other contact ordered
98 under paragraph (4)(d) must ~~shall~~ be:

99 (a) Supervised by a person who has previously received
100 special training in the dynamics of child sexual abuse or
101 parricide, as applicable; or

102 (b) Conducted in a supervised visitation program, provided
103 that the program has an agreement with the court and a current
104 affidavit of compliance on file with the chief judge of the
105 circuit in which the program is located affirming that the
106 program has agreed to comply with the minimum standards
107 contained in the administrative order issued by the Chief
108 Justice of the Supreme Court on November 17, 1999, and provided
109 the program has a written agreement with the court and with the
110 department as described in s. 753.05 containing policies and
111 guidelines specifically related to referrals involving child
112 sexual abuse.

113 Section 3. Present subsections (3) through (18) of section
114 39.402, Florida Statutes, are redesignated as subsections (4)
115 through (19), respectively, a new subsection (3) is added to
116 that section, paragraph (e) is added to present subsection (11)

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of that section, and paragraph (b) of present subsection (6) of that section is amended, to read:

39.402 Placement in a shelter.—

(3) A shelter hearing must take place within 24 hours after a child is taken into custody if:

(a) The child's parent or legal custodian has been arrested for an offense under s. 782.04 or s. 782.07 when the victim of the offense is the child's other parent or legal custodian; or

(b) The child's parent or legal custodian has been arrested for an offense under ss. 782.04 and 777.04, relating to attempted murder; ss. 782.051 and 777.04, relating to attempted felony murder; or ss. 782.07 and 777.04, relating to attempted manslaughter, when the victim of the offense is the child's other parent or legal custodian and the offense has rendered the victim incapacitated.

(6)

(b) The shelter petition filed with the court must address each condition required to be determined by the court in paragraphs (9) (a), (b), (d), and (h) ~~(8) (a), (b), (d), and (h)~~.

(12) (11)

(e) If a child is placed in a shelter pursuant to a court order following a shelter hearing under subsection (3), the child must be referred to a provider of trauma-informed therapeutic services, which may be:

1. A licensed private provider selected by the child's legal custodian or guardian ad litem; or

2. A state-funded program administered by the department or a contracted community-based care provider through a child victim advocacy program.

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

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

(1) The department shall conduct a child protective investigation of each report of institutional child abuse, abandonment, or neglect. Upon receipt of a report that alleges that an employee or agent of the department, or any other entity or person covered by s. 39.01(40) or (58) ~~s. 39.01(39) or (57)~~, acting in an official capacity, has committed an act of child abuse, abandonment, or neglect, the department shall initiate a child protective investigation within the timeframe established under s. 39.101(2) and notify the appropriate state attorney, law enforcement agency, and licensing agency, which shall immediately conduct a joint investigation, unless independent investigations are more feasible. When conducting investigations or having face-to-face interviews with the child, investigation visits shall be unannounced unless it is determined by the department or its agent that unannounced visits threaten the safety of the child. If a facility is exempt from licensing, the department shall inform the owner or operator of the facility of the report. Each agency conducting a joint investigation is entitled to full access to the information gathered by the department in the course of the investigation. A protective investigation must include an interview with the child's parent or legal guardian. The department shall make a full written report to the state attorney within 3 business days after making the oral report. A criminal investigation shall be coordinated, whenever possible, with the child protective investigation of

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the department. Any interested person who has information regarding the offenses described in this subsection may forward a statement to the state attorney as to whether prosecution is warranted and appropriate. Within 15 days after the completion of the investigation, the state attorney shall report the findings to the department and shall include in the report a determination of whether or not prosecution is justified and appropriate in view of the circumstances of the specific case.

Section 5. Paragraph (p) of subsection (4) of section 394.495, Florida Statutes, is amended to read:

394.495 Child and adolescent mental health system of care; programs and services.—

(4) The array of services may include, but is not limited to:

(p) Trauma-informed services for children who have suffered sexual exploitation as defined in s. 39.01(81)(g) ~~s. 39.01(80)(g)~~.

Section 6. Paragraph (c) of subsection (1) of section 934.255, Florida Statutes, is amended to read:

934.255 Subpoenas in investigations of sexual offenses.—

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

(c) "Sexual abuse of a child" means a criminal offense based on any conduct described in s. 39.01(81) ~~s. 39.01(80)~~.

Section 7. Subsection (5) of section 960.065, Florida Statutes, is amended to read:

960.065 Eligibility for awards.—

(5) A person is not ineligible for an award pursuant to paragraph (2)(a), paragraph (2)(b), or paragraph (2)(c) if that person is a victim of sexual exploitation of a child as defined

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204 in s. 39.01(81)(g) ~~s. 39.01(80)(g)~~.

205 Section 8. Subsection (24) of section 984.03, Florida
206 Statutes, is amended to read:

207 984.03 Definitions.—When used in this chapter, the term:

208 (24) "Neglect" has the same meaning as in s. 39.01 ~~s.~~
209 ~~39.01(53)~~.

210 Section 9. This act shall take effect July 1, 2026.