

# SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

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

BILL: CS/SB 606

SPONSOR: Children and Families Committee and Senator Miller

SUBJECT: Child Abuse/Religious Institutions

DATE: April 8, 2003

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Dowds</u>	<u>Whiddon</u>	<u>CF</u>	<u>Favorable/CS</u>
2.	<u>Dormady</u>	<u>O'Farrell</u>	<u>ED</u>	<u>Favorable</u>
3.	_____	_____	<u>CJ</u>	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

## I. Summary:

Committee Substitute for SB 606 amends s. 39.201, F.S., to add individuals employed or supervised by religious institutions, including their affiliated organizations, to the list of specified persons who are mandated to report child abuse. Members of the clergy who are currently granted privileged communication under s. 90.505, F.S. are specifically exempted from these reporting requirements. As a condition to the exception, the privileged communication itself must also meet the requirements of s. 90.505, F.S.

The addition of employees of religious organizations to the list of specified professions required to report does not alter the current responsibility of these individuals to report child abuse. These employees of religious organizations would, however, now be required to provide their names when making a report.

This bill substantially amends section 39.201 of the Florida Statutes.

The bill takes effect July 1, 2003.

## II. Present Situation:

General Reporting Requirement. Under current law, employees of religious institutions are required to report abuse under the general requirement that "any person" who knows or suspects abuse must report it. Section 39.201(1), F.S., requires any person who knows or has reasonable cause to suspect that child abuse, neglect, or abandonment has occurred by a parent or other person responsible for the child to report such suspicion or knowledge to the department's central abuse hotline. The statute also specifically lists several professions, the members of

which are required to report child abuse; persons required to report abuse are not limited to these professions, however.

Specifically listed professions. Professions specifically listed under the statute as required to report abuse include physicians, nurses, and other health and mental health professionals; practitioners who use spiritual means for healing; school officials; social workers, child care workers, and other social service personnel; law enforcement officers; and judges. Members of these professions are required to provide their names when reporting (s. 39.201(2)(c), F.S.), which is not required from members of the general public. These names are not to be released to any party other than employees of the department responsible for child protective services, the abuse hotline, law enforcement, the child protection team, or the appropriate state attorney, however, without the written consent of the person making the report (s. 39.202(4), F.S.).

Penalty for Failure to Report Abuse. “Abuse” is defined in s. 39.01, F.S., as any willful or threatened act that results in any physical, mental, or sexual injury or harm that causes or is likely to cause the child’s physical, mental, or emotional health to be significantly impaired. It includes omissions as well as acts. Under s. 39.205(1), F.S., a person who knowingly or willfully fails to report known or suspected child abuse, abandonment, or neglect or prevents another person from doing so is guilty of a first degree misdemeanor. A first degree misdemeanor is punishable by up to 1 year in jail or \$1,000 in fines (ss. 775.082 and 775.083, F.S.).

Exception to Reporting Requirement for Clergy. Members of the clergy exempt from reporting requirements pursuant to s. 90.505, F.S., include priests, rabbis, practitioners of Christian Science, or ministers of a religious organization or denomination usually referred to as a church. Communication will be privileged if: (1) it is between an identified member of the clergy (or someone reasonably believed to be such by the person consulting them) and a person who is seeking spiritual counsel or advice; (2) such communication is made privately during the regular course of the clergy member’s practice; and (3) it is not intended for further disclosure.

Section 39.204, F.S., provides that certain types of communication that are otherwise confidential are not privileged with respect to known or suspected child abuse, neglect, or abandonment. Accordingly, communication between husbands and wives or between certain professionals (excluding attorneys) and their clients or patients concerning child abuse will not be exempted from reporting requirements. Clergy members party to privileged communication with persons seeking their counsel pursuant to s. 90.505, F.S., however, *are* exempt from the penalties for not reporting information pertaining to child abuse, as well as from cooperating with law enforcement and the Department of Children and Families and from providing evidence in a judicial proceeding.

### **III. Effect of Proposed Changes:**

CS/SB 606 amends s. 39.201, F.S., to add individuals employed or supervised by religious institutions, including their affiliated organizations, to the list of specified persons who are mandated to report child abuse. Specifically excluded from the persons who are identified as mandated reporters are members of the clergy who are currently granted privileged communication, when that communication meets the requirements of s. 90.505, F.S. The

addition of employees of religious organizations to the list of specified professions required to report does not alter the current responsibility of these individuals to report child abuse. These employees of religious organizations would, however, now be required to provide their names when making a report.

Religious institutions the employees of which would be affected by this bill include, without limitation, mosques, churches and synagogues. The bill's requirements apply to persons who are employed or supervised by any religious institution or schools or other auxiliary organizations affiliated with a religious institution.

As noted above, however, priests, rabbis, practitioners of Christian Science, or ministers of a religious organization or denomination usually referred to as a church who are afforded privileged communication pursuant to s. 90.505, F.S., are specifically excluded from reporting information learned in their private communications with individuals seeking spiritual counsel pursuant to s. 90.505, F.S. Information learned by members of clergy outside of the specific communication afforded privileged status pursuant to s. 90.505, F.S., would still be required to be reported.

The bill provides an effective date of July 1, 2003.

#### **IV. Constitutional Issues:**

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

#### **V. Economic Impact and Fiscal Note:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

**C. Government Sector Impact:**

The Department of Children and Families indicates that, historically, adding a category of professionals to the list of identified reporters increases the level at which these persons report abuse (notwithstanding the fact that all such persons would have been required to report abuse under the general reporting requirements even prior to being listed as an identified reporter). Accordingly, the addition of religious institution employees to the list of identified reporters may increase the number of reports made. The Department of Children and Families staff have estimated that reports from this group could potentially increase to equal the number of reports currently received from school employees. School employees currently make approximately 10 percent of abuse reports. If an increase such as the one predicted by the Department of Children and Families occurred, there would be an additional 19,858 reports of abuse annually that would require investigation at a conservative cost of \$515 per investigation, totaling \$10,227,870.

However, it should be noted that for FY 2000-2001, only 171 reports were received from clergy. While an increase in the number of reports from individuals in religious institutions is anticipated as a result of becoming an identified reporter, the level of the increase is difficult to predict.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Amendments:**

None.