

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 1442

SPONSOR: Committee on Children and Families

SUBJECT: Child Protective Services

DATE: March 26, 2003 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Dowds</u>	<u>Whiddon</u>	<u>CF</u>	<u>Favorable/CS</u>
2.	<u> </u>	<u> </u>	<u>AHS</u>	<u> </u>
3.	<u> </u>	<u> </u>	<u>AP</u>	<u> </u>
4.	<u> </u>	<u> </u>	<u> </u>	<u> </u>
5.	<u> </u>	<u> </u>	<u> </u>	<u> </u>
6.	<u> </u>	<u> </u>	<u> </u>	<u> </u>

I. Summary:

Committee Substitute for Senate Bill 1442 is the by-product of a senate committee interim project focusing on the retention of protective investigators. It modifies the child protective investigation process to provide a two-tiered process that provides differential levels of investigative activities. A Protective Investigative Retention Workgroup is established to address a number of issues pertaining to the retention of protective investigators with a report back to the Legislature. These issues include further examination of the investigative process to identify efficiencies, determining the appropriate handling of child abuse in Department of Juvenile Justice facilities, examining the qualifications desired for protective investigators and their supervisors, developing a plan for training protective investigators, and developing a plan for building communication and recognition of staff. The process for accepting reports for investigation is clarified and the central abuse hotline is authorized to determine the response time for institutional child abuse. The requirement that TANF non-compliance cases be referred for protective intervention is removed, and the directive to proceed with an assessment for child-on-child sexual abuse reports is clarified. The Department of Children and Families is prohibited from amending its operating budget to shift funds or positions for protective investigators to other functions. Finally, the Office of Program Policy Analysis and Governmental Accountability is directed to conduct a study on the impact that availability of services to families has on the turnover of protective investigators and the families' re-entry into the child protective system.

This bill substantially amends sections 39.201, 39.301, 39.302, 39.307, 39.823, and 414.065 of the Florida Statutes.

II. Present Situation:

Considerable attention has been focused in Florida, as well as other states, on the ability of the child protection system to adequately respond to the abuse and neglect of children. Some of the problems being experienced have been attributed to the turnover of child protection staff. When child protection staff leave, lost is the knowledge and the expertise the staff had attained in making recommendations about the families where abuse and neglect have been reported. It takes time for newly hired staff to gain this knowledge and experience. While the vacant positions are being filled and hired staff trained, existing workers must assume a greater portion of the workload. This increased workload means these existing staff cannot continue to perform the necessary quality of work. It increases their intolerance of undesirable working conditions, resulting in quality staff leaving. These departures create a cycle that continues and compounds the inadequacies in the system and further erodes staffs' desire to remain in the position.

Most states have been wrestling with the problem of retaining child protection staff; however, Florida's problem appears significantly worse. The national turnover for child protection staff ranges from 16 percent to 20 percent; Florida's rate has ranged from 24 percent to 32 percent. Of Florida's child protection staff, the protective investigator positions have experienced the highest level of new workers coming into the job. As of September 2002, 41 percent of the protective investigators had been on the job less than 1 year and an additional 20 percent of the workers had been in the position only 1 to 2 years. When combined with the 10 percent vacancy rate, only 28 percent of the protective investigative workforce had 2 or more years experience in this position.

While research speaks to a number of factors that contribute to why some child protection staff leave and why some stay, a Senate Interim Project was conducted to ascertain the factors that most significantly influence the decisions of Florida's protective investigators. Through surveys and focus groups, Florida's protective investigators and their supervisors identified the most significant reasons why these staff leave. For details of the interim project study and its findings, please refer to Interim Project Report 2003-110: *Retention of Protective Investigators and Protective Investigative Supervisors*.

Child Protection Investigative Process

The protective investigators and protective investigator supervisors report that a series of investigative and administrative activities is required to be performed on every child abuse report that is accepted by the central abuse hotline. Even in situations when the protective investigator determines quickly that the maltreatment did not occur, the full investigation is required, resulting in investigators often devoting similar amounts of time and resources to investigating reports where there is no maltreatment as to investigating reports where there is severe abuse. There are also reports, such as those where the abuse occurred and the perpetrator is located in another state and where the abuse is alleged to have occurred several years ago, that require the full investigative process even though the investigator is limited in the investigation that can be conducted or it is soon determined that there is currently no immediate or long term risk to the child. There is no distinction in the required investigative process to allow for differences in the required tasks based on the type of reports received.

Section 39.301(9), F.S., requires that for each report the department receives, an on-site child protection investigation be conducted that includes face-to-face interviews with the child, other siblings, the parents, and other adults who are living in the household. The investigation also requires an on-site assessment of the child to determine the following:

- Composition of the family;
- Whether there is indication of abuse, nature of injuries, and determination of person responsible for the abuse;
- Whether there is any criminal background of the family members;
- The immediate and long-term risk to the child using a risk assessment, which is to be completed within 48 hours (and if determined to be needed by the assessment, a case plan is to be developed); and
- The services needed to ensure the child's safety, well-being, and development.

In implementing this provision, the department trains the protective investigators and, it has been reported, requires in monitoring reviews, additional tasks which, while warranted for many of the reports where the maltreatment has occurred, may not all be necessary for all reports. The protective investigators and their supervisors also report that the administrative portion of the activities required in a child protection investigation far outweigh the investigative activities. The Department of Children and Families has contracted with Florida State University for an independent examination of the tasks being conducted by the protective investigators which will provide a solid foundation from which to determine the activities that are and are not necessary for an effective child protection investigation.

The protective investigators report that the services needed by the families to ensure the children's safety, well-being, and development are not available to the extent needed by the families. This insufficiency results in protective investigators working on the reports longer than necessary to attempt to secure the services from the community. In addition, the protective investigators note that families are being reported for subsequent abuse, requiring new investigations, for what they attribute as the inadequacy of the services to address the issues creating the initial reports.

Reports to be Investigated for Child Abuse, Neglect, and Abandonment

Protective Investigators report that many of the reports accepted for investigation either do not meet the definition of abuse, neglect, or abandonment or do not meet what they perceive as the intent of ch. 39, F.S. Reports from professionals specifically identified in statute as required to report appear to be the category of reports that most often do not meet the definition of abuse, neglect, or abandonment. 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 the parent or other person responsible for the child to report such suspicion or knowledge to the department's central abuse hotline. The central abuse hotline determines if the call received meets the definition of abuse, neglect, or abandonment, at which time it is referred to the district for an investigation by the child protective investigators. Specific professions are also identified in s. 39.201(1), F.S., as being required to report their knowledge or suspicion of abuse and under s. 39.201(2)(c), F.S., are required to provide their name. Section 39.201(2)(b), F.S., further requires that reports received from some of these professionals, i.e., physicians or certain other medical professionals, school officials, and judges, be considered valid and accepted for

investigation if the alleged harm is as defined in statute. It has been reported that this provision may be interpreted as requiring the acceptance of a report from these professionals for investigation without a determination of whether the allegation meets the definition of abuse, neglect, or abandonment. Also, the location in statute which identifies specific professions required to report has led to confusion as to the persons actually considered mandated reporters, i.e., all persons or just the list of professions.

Two additional groups of reports that have received substantial questioning relative to the need or value of receiving a child protective investigation are TANF (Temporary Assistance to Needy Families) non-compliance reports and institutional child abuse reports, particularly those received from the Department of Juvenile Justice facilities.

- Section 414.065(2), F.S., requires that a report for protective intervention be made for individuals receiving TANF checks who are being sanctioned for non-compliance with the work requirements and are, subsequently, not complying with the Economic Self-Sufficiency office in appointing a protective payee. With these reports, there is no allegation of knowledge or suspicion of child abuse, neglect, or abandonment. There is instead concern that neglect may follow the loss of the TANF check.
- The jurisdiction of the child protective investigator in Department of Juvenile Justice facilities has been found to need examination because the primary tools available are limited to actions more relevant with parents. Also, in examining Department of Children and Families data regarding reports of child abuse in Department of Juvenile Justice facilities, it is clear that a large portion of the reports which are investigated are not found to have any indication of abuse or neglect. Between 75 percent and 79 percent of the reports from the Department of Juvenile Justice facilities were found to have no indications of abuse or neglect compared to approximately 50 percent of all reports. It has been reported that a number of states have wrestled with how best to handle child abuse that occurs in institutional settings because of the many differences between abuse occurring in the home and abuse occurring in settings where the caretaker is not the parent or legal guardian. However, important questions that surface include what standards should employees be held pertaining to abuse or neglect of the children in their care, who should investigate, how to ensure an independent investigation, and what protections should be afforded the children.

The child-on-child sexual abuse reports have been identified as lacking clarity relative to the required response. Section 39.307, F.S., requires that such reports receive an assessment of risk and treatment needs, as well as assistance in securing the necessary services for the youth and their families. However, s. 39.201(2)(e), F.S., directs the department to proceed with an investigation pursuant to part II of ch. 39, F.S., if the report involves a juvenile sexual offender 12 years of age or younger. Reports received involving a juvenile sexual offender age 13 and older are to be transferred to law enforcement. In addition, s. 39.01(7), F.S., provides two definitions of juvenile sexual offenders; a) a child under 12 years of age who has committed certain offenses, such as sexual battery and prostitution, and b) a child who has committed an act of juvenile sexual abuse as set forth in the definition. However, s. 39.307, F.S., refers to juvenile sexual offenders as defined in s. 39.01(7), F.S., but specifies paragraph (b), excluding a group of juvenile sexual offenders under the age of 12 years referenced in s. 39.201(2), F.S.

Section 39.201(5), F.S., sets forth a process for determining the response time for a report of child abuse, neglect, or abandonment and requires that an investigation be commenced immediately if the immediate safety of the child is endangered, the family may flee, or other facts warrant an immediate response. All other investigations are to be commenced within 24 hours. However, all institutional child abuse reports are required to be commenced immediately [s. 39.302(1), F.S.].

Qualifications and Training

The protective investigators and their supervisors report that protective investigators are being hired who did not understand what the job entails, who have no human services or any post-college work experience, and who do not have the characteristics or abilities to perform the job. It is also reported that the current training for protective investigators does not adequately prepare them for the job. Preparation for the job relies too heavily on classroom training by the Professional Development Center and offers minimal on-the-job training which more effectively teaches the application of the complex set of laws and policies surrounding child abuse, neglect, and abandonment.

Management

Lack of administrative support and recognition for the work performed was evident in both the focus groups and surveys and appeared to contribute to the burden the department protective investigators felt in the performance of their job. There have also been reports that protective investigative positions allocated by the Legislature in past years to reduce the caseload have been used by some districts for other positions.

III. Effect of Proposed Changes:

CS/SB 1442 is the by-product of a Senate committee interim project focusing on the retention of protective investigators. It modifies the child protective investigation process to provide a two-tiered process that provides differential levels of investigative activities. A Protective Investigative Retention Workgroup is established to address a number of issues pertaining to the retention of protective investigators with a report back to the Legislature. These issues include further examination of the investigative process to identify efficiencies, determining the appropriate handling of child abuse in Department of Juvenile Justice facilities, examining the qualifications desired for protective investigators and their supervisors, developing a plan for training protective investigators, and developing a plan for building communication and recognition of staff. The process for accepting reports for investigation is clarified and the central abuse hotline is authorized to determine the response time for institutional child abuse. The requirement that TANF non-compliance cases be referred for protective intervention is removed, and the directive to proceed with an assessment for child-on-child sexual abuse reports is clarified. The Department of Children and Families is prohibited from amending its operating budget to shift funds or positions from protective investigators to other functions. Finally, the Office of Program Policy Analysis and Governmental Accountability is directed to conduct a study on the impact that availability of services to families has on the turnover of protective investigators and the families' re-entry into the child protective system.

Child Protection Investigative Process

Subsection 39.301, F.S., is amended to allow for a two-tiered child protection investigation system. The first tier is the current legislatively mandated onsite child protection investigation which is set forth as the investigative process to be followed for specifically identified reports. These reports are specifically as follows:

- Reports for which there is obvious compelling evidence that no maltreatment occurred, and there are no prior reports with either verified findings or some indications of abuse, neglect, or abandonment, with the exception of prior reports where the adults were victims of abuse as a child (Excluded from this first tier investigative process are reports that include physical abuse, sexual abuse, domestic violence, substance abuse or substance exposure, medical neglect, a child younger than 3 years of age, or a child who is disabled or non-verbal);
- Reports of abuse that occur in another state and where the child's residence and the alleged perpetrator is in another state, if the other state in which these elements occur do not accept the reports for investigation; or
- Reports of older abuse incidents where the incident of abuse is alleged to have occurred 2 or more years prior to the report and no other indicators of risk to any child in the home is present.

The second tier is an enhanced onsite child protection investigative process which requires the current legislatively mandated activities of a face-to-face interview with the child, parents, other siblings, and other adult household members, as well as certain activities currently required by the department in investigations, specifically, collateral contacts, contact with the reporter, an updated assessment, and detailed documentation. These enhanced onsite child protection investigative activities are required for the following reports:

- Any allegation that involves physical abuse, sexual abuse, domestic violence, substance abuse or substance exposure, medical neglect, children under 3 years of age, or children who are disabled or non-verbal;
- Reports where there is a prior report with some indicators or verified findings of abuse, neglect, or abandonment;
- Reports where compelling evidence does not exist that the maltreatment did not occur; or
- Any report that does not meet the criteria for the first-tier onsite child protective investigation process.

The bill clarifies that the required face-to-face interview with the parent applies to the legal custodian or caregiver, when appropriate, for both the first and second tiered investigation process. It further stipulates that reports identified for the first tier onsite child protection investigation process are not precluded from additional investigative activities if determined necessary for the safety of the child. The supervisor must approve in writing with documentation that a report does not require an enhanced onsite child protective investigation. The department is directed to develop guidelines, in collaboration with the sheriff's office, for both the onsite and enhanced child protective investigative process.

The creation of the two-tiered child protection investigative process continues all of the current legislatively mandated child protection investigative activities for all reports. However, it stipulates which reports are required to receive the additional departmental investigative

activities and, in turn, which reports will not require these additional activities. The requirement to utilize the additional department investigative activities is removed for reports where there is a likelihood of no indication of abuse, neglect, or abandonment. This new two-tiered investigation process both ensures a standard level of investigation for all reports but preserves the additional investigative activities for the more severe cases.

The cross reference to s. 39.301, F.S., is amended in s. 39.823, F.S., to reflect the redesignation of subsections in s. 39.301, F.S.

The department is directed to incorporate a monitoring of the reports receiving an onsite child protection investigative process and those receiving an enhanced onsite child protection investigative process into its quality assurance review. In a separate section of the bill, the department is specifically directed to submit a report on the status of the implementation, emerging benefits and problems, and recommendations, if identified, to the Senate Committee on Children and Families and the House Committee on the Future of Florida's Families by December 31, 2003. A quality assurance review of the reports receiving the onsite child protection investigative process is also required. The accuracy of the determinations made to not use the enhanced child protection investigative process is to be examined in the quality assurance review, as well as whether there is an unacceptable risk to the families in not using the enhanced process and whether the new process provided the efficacy intended in the workload management. For the areas of the state where the child protective investigations are performed by the sheriffs' offices, this quality assurance review is to be incorporated into the annual program performance evaluation conducted pursuant to s. 39.3065(3), F.S. A final report on the results of the quality assurance review is to be submitted to the Legislature by December 31, 2004.

Section 39.302, F.S., is amended to eliminate the requirement that all institutional child abuse reports receive an immediate response. Instead, the central abuse hotline is permitted to determine the response time needed based on the nature and severity of the calls received.

The proposed committee bill directs the Department of Children and Families to establish a Protective Investigator Retention Workgroup to examine a series of issues pertaining to the retention of the protective investigators. Several of the issues to be examined by the workgroup deal specifically with the child protection investigative process with reports required to the Legislature that may potentially include further modifications to the process. The issues pertaining to the investigative process are as follows:

- Examining the feasibility of and developing a plan for using an alternative response system to respond to low risk abuse reports;
- Examining and developing a plan for an investigative process that uses different levels of investigative activities based on the severity of risk and probability of continued and increased abuse and neglect; and
- Examining the results of the Florida State University task analysis study of protective investigators and determining how to make the process more efficient, including streamlining forms and identifying tasks that are not necessary or should be performed by other staff.

The Office of Program Policy Analysis and Government Accountability is directed by the bill to conduct a study of the impact that the availability of services to families has on the protective

investigators' workload and turnover and on families' subsequent reports of abuse. This study is also to identify those services that would have the greatest impact on preventing the families' return into the child protection system. A report on the results of the study is required to be submitted to the Legislature by December 31, 2003.

Reports to be Investigated for Child Abuse, Neglect, and Abandonment

Section 39.201(2)(a), F.S., is amended by the bill to clearly articulate current department practice of the central abuse hotline determining and accepting for investigation reports that meet the statutory criteria for child abuse, neglect, and abandonment and determining that the perpetrator of the abuse, neglect, or abandonment meet the definition in ch. 39, F.S. Section 39.201(2)(b), F.S., that requires reports received from physicians, school officials, and judges to be considered valid and accepted for investigation if the alleged harm is as defined in statute, is deleted. The bill clarifies that all persons, not just professionals identified in statute, are mandated reporters by removing the list of professionals from the requirement to report provision and listing these professionals instead in the provision requiring the reporter to provide their name which is currently in law. The provisions contained in this section are reorganized to provide for all requirements regarding the responsibility to report in one subsection. A new subsection of s. 39.201, F.S., is created directing the central abuse hotline not to accept reports for investigation of child abuse, neglect, and abandonment when the abuse occurred and the child and perpetrator resides out of state. Information received on these out-of-state reports is to be transferred to that state.

Section 414.065(2), F.S., is amended to delete the requirement that a referral be made for protective intervention if the department is unable to designate a protective payee as part of the sanctioning for non-compliance with the TANF requirements.

Section 39.201(2)(e), F.S., is amended to clarify that the department is to conduct an assessment and assist the family receive services for reports involving juvenile sexual offenders under the age of 12, instead of proceeding with an investigation. This amendment provides consistency between ss. 39.201 and 39.307, F.S. relative to the directive on actions to be taken for child-on-child sexual abuse reports received by the department. Section 39.307(1), F.S., is also amended to provide that this section applies to all of the youth defined as juvenile sexual offenders in s. 39.01(7), F.S.

Institutional child abuse reports are dealt with in two different sections of the bill. First, the Protective Investigator Retention Workgroup to be established by the Department of Children and Families is charged with examining and making recommendations regarding the handling of child abuse in Department of Juvenile Justice facilities, including the protection against abuse that should be provided to children in these facilities, the entity that should conduct investigations of abuse, the penalties that should be imposed, providing for an independent investigation, and ensuring the protection of the children. Second, s. 39.302, F.S., is amended to eliminate the requirement that all institutional child abuse reports receive an immediate response. Instead, the bill allows the central abuse hotline to determine the response time needed based on the nature and severity of the allegations.

Qualifications and Training

The issues to be examined by the Protective Investigators' Retention Workgroup include the qualifications and training needed by the protective investigators. Specifically, the workgroup is to examine and make recommendations on the education and work experience that protective investigators and protective investigator supervisors should possess. The workgroup is also to examine and develop a plan for the training that will adequately prepare protective investigators for the job. This plan is to specifically identify the training that needs to be offered statewide and that which is district specific, determine the training that should be offered through classroom activities and that which needs to be offered through structured field or on-the-job training, propose ways to strengthen the structured field or on-the-job training, estimate the costs of this structured field or on-the-job training, and present a 3 year implementation plan for phasing in any expansion to the training program.

Management

The Protective Investigators' Retention workgroup is also directed to examine and develop a plan for building communication and the involvement in decision making with the front line staff and for promoting non-monetary recognition. The bill also prohibits the department from amending its operating budget to decrease any funding or positions appropriated for additional protective investigator positions without approval of the Legislative Budget Commission. This provision is a companion provision to proposed proviso language that would provide more specificity as to the use of any funds or positions appropriated for protective investigative positions.

The Department of Children and Families is directed to include on the workgroup protective investigators, protective investigator supervisors, representatives from the central abuse hotline, representatives from the department's Human Resource office, representatives from at least two of the sheriffs' offices currently conducting child protective investigations, and at least two members with expertise in other states' child protection systems. Advisory groups are permitted to be used in the examination of the identified issues and development of plans. The department is encouraged to utilize individuals from outside the department with knowledge and expertise, such as representatives from the domestic violence programs. Specific representation is required by the bill for certain issues as follows: representatives from the Department of Juvenile Justice and the Statewide Advocacy Council for the institutional child abuse issue, representatives from the child welfare training academies for the training issue, representatives from the Neighborhood Partnerships for the Protection of Children and with experience from Florida's Family Service Response System for the alternative response system issue, a representative from the Behavioral Analysis Services Program for the development of different levels of investigative activities, and representatives from each of the sheriffs' offices performing child protection investigations for both the examination of the alternative response system and the examination of the different levels of investigative activities. The bill sets forth the interrelationship of the issues and plans and instructs the department to provide for sharing of information and results relating to each of the issue examinations and plan development activities to prevent incompatibility across the plans or inconsistency with the desired framework for child protection.

The provisions of the bill are to take effect upon becoming law.

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 has not identified a fiscal impact for this bill.

VI. Technical Deficiencies:

None.

VII. Related Issues:

The Department of Children and Families reports that the clarifying of abuse reports accepted, allowing for certain out of state reports of abuse to be referred to other states for investigation, and the two-tiered investigation process provided for in the bill would provide some efficiencies that would allow for more appropriate targeting of resources to abuse, neglect and abandonment investigations.

The bill sets forth conflicting directives for reports where the abuse occurred out of state, and the child and the perpetrator reside out of state. In s. 39.201(2), F.S., the department is directed not to accept such reports but to transfer the information received to the appropriate state. In s. 39.301(9), F.S., the department is directed to accept these reports unless another state accepts the report for investigation.

VIII. Amendments:

None.

This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.
