

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 688
SPONSOR: Children and Families Committee and Senator Miller
SUBJECT: Child Abuse Reports/Religious Institutions
DATE: January 7, 2004 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Dowds	Whiddon	CF	Fav/CS
2.			CJ	
3.				
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I. Summary:

Committee Substitute for SB 688 amends s. 39.201, F.S., to add individuals employed by religious institutions, including their affiliated organizations, to the list of specified occupations whose members are required to provide their names when reporting child abuse. Specifically excluded from the persons who are mandated to provide their names are members of the clergy who are currently granted privileged communication when that communication meets the requirements of ss. 39.204 and 90.505, F.S. The inclusion of employees of religious organizations to the list of specified reporters required to provide their names does not alter the current responsibility of these individuals to report child abuse. However, these employees of religious organizations would now be required to provide their names when making a report.

This bill substantially amends section 39.201 of the Florida Statutes.

II. Present Situation:

Section 39.201(1)(a), 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. Several occupations are specifically identified in s. 39.201(1)(b), F.S., as being required to provide their name to the abuse hotline when making a report of child abuse. These occupations 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. Individuals identified in the list of professions required to provide their names are entitled to request a written summary of the outcome of the investigation [s. 39.202(5), F.S.]. The names of the reporters are not to be

released to any person other than the department employees either responsible for child protective services or with the abuse hotline, law enforcement, the child protection team, or the appropriate state attorney without the reporter's written consent [s. 39.202(5), F.S.].

“Abuse” is defined in s. 39.01, F.S., as any willful act 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 also includes omissions on the part of the caregiver. 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 a \$1,000 in fines (ss. 775.082 and 775.083, F.S.).

Currently, while members of religious institutions are required to report as “any person” who knows or suspects abuse of a child, these individuals are not included in the list of occupations specifically required to provide their names in s. 39.201(1)(b), F.S. However, members of religious institutions who are priests, rabbis, practitioners of Christian Science, or ministers of a religious organization or denomination usually referred to as a church are afforded privileged communication pursuant to s. 90.505, F.S. Specifically, this privileged communication provides that communication between the identified member of the clergy and a person who is seeking spiritual counsel or advice is confidential if such communication is made during the regular course of the clergy member's practice and is not intended for further disclosure.

Chapter 39, F.S., specifically recognizes this privileged communication as it pertains to child abuse. Section 39.204, F.S., provides that privileged communication, relative to the competency of a witness and the confidentiality of the communication whether between husband and wife, professionals and their clients, or others with privileged communications, does not apply when it pertains to information involving an alleged perpetrator when child abuse, neglect, or abandonment is known or suspected. Privileged communication normally afforded these parties is not grounds for failing to report the known or suspected abuse, failing to cooperate with law enforcement or the department, or failing to provide evidence in a judicial proceeding. However, the privileged communication between attorneys and their clients, as well as members of the clergy and persons seeking their counsel pursuant to s. 90.505, F.S., is continued for child abuse, neglect, or abandonment. As a result, these individuals are exempt from the penalties for not reporting information pertaining to child abuse, as well as from cooperating with law enforcement and the department and from providing evidence in a judicial proceeding.

III. Effect of Proposed Changes:

Committee Substitute for SB 688 amends s. 39.201(1)(b), F.S., to add individuals employed by religious institutions, including their affiliated organizations, to the list of persons who are required to provide their names when reporting suspected child abuse. Specifically excluded from the reporters required to provide their names to the hotline staff are members of the clergy who are currently granted privileged communication when that communication meets the requirements of ss. 39.204 and 90.505, F.S. The inclusion of employees of religious organizations to the list of specified occupations required to report does not alter the current

responsibility of these individuals to report child abuse. However, these employees of religious organizations would now be required to provide their names when making a report.

Specifically, the bill adds to the list of occupations identified as reporters required to provide their names when reporting child abuse individuals who are employed by a religious institution. These religious institutions include mosques, churches and synagogues. Also included are persons who are employed by schools or other auxiliary organizations which are affiliated with a religious institution. Specifically excluded from this requirement are the priests, rabbis, practitioners of Christian Science, or ministers of a religious organization or denomination usually referred to as a church who are not required to report suspected child abuse pursuant to ss. 39.204 and 90.505, F.S.

The bill provides an effective date of July 1, 2004.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. Other Constitutional Issues:

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 reports that there would be no fiscal impact with this bill. The department believes that most of these individuals are currently reporting, and this revision to the statute would not significantly increase the number of child protective investigations.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Amendments:

None.

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