

1 A bill to be entitled

2 An act relating to child protection; amending s.
3 39.2015, F.S.; providing requirements for the
4 representation of Children's Medical Services on
5 multiagency teams investigating certain child deaths
6 or other serious incidents; amending s. 39.303, F.S.;
7 requiring the Statewide Medical Director for Child
8 Protection and the district medical directors to hold
9 certain qualifications; requiring the Department of
10 Health to approve a third-party credentialing entity
11 to administer a credentialing program for district
12 medical directors; amending s. 768.28, F.S.;
13 specifying that child protection team members are
14 covered by state sovereign immunity provisions when
15 carrying out their duties; amending s. 458.3175, F.S.;
16 providing that a physician who holds an expert witness
17 certificate may provide expert testimony in criminal
18 child abuse and neglect cases; amending s. 39.301,
19 F.S.; correcting a cross-reference; reenacting ss.
20 39.3031 and 391.026(2), F.S., relating to child
21 protection teams, to incorporate the amendments made
22 by the act to s. 39.303, F.S., in references thereto;
23 providing an effective date.

24
25 Be It Enacted by the Legislature of the State of Florida:
26

27 Section 1. Subsection (3) of section 39.2015, Florida
28 Statutes, is amended to read:

29 39.2015 Critical incident rapid response team.—

30 (3) Each investigation shall be conducted by a multiagency
31 team of at least five professionals with expertise in child
32 protection, child welfare, and organizational management. The
33 team may consist of employees of the department, community-based
34 care lead agencies, Children's Medical Services, and community-
35 based care provider organizations; faculty from the institute
36 consisting of public and private universities offering degrees
37 in social work established pursuant to s. 1004.615; or any other
38 person with the required expertise. The team shall include, at a
39 minimum, the local child protection team medical director. The
40 majority of the team must reside in judicial circuits outside
41 the location of the incident. The secretary shall appoint a team
42 leader for each group assigned to an investigation.

43 Section 2. Section 39.303, Florida Statutes, is amended to
44 read:

45 39.303 Child protection teams; services; eligible cases.—

46 (1) The Children's Medical Services Program in the
47 Department of Health shall develop, maintain, and coordinate the
48 services of one or more multidisciplinary child protection teams
49 in each of the service districts of the Department of Children
50 and Families. Such teams may be composed of appropriate
51 representatives of school districts and appropriate health,
52 mental health, social service, legal service, and law

53 enforcement agencies. The Department of Health and the
54 Department of Children and Families shall maintain an
55 interagency agreement that establishes protocols for oversight
56 and operations of child protection teams and sexual abuse
57 treatment programs. The State Surgeon General and the Deputy
58 Secretary for Children's Medical Services, in consultation with
59 the Secretary of Children and Families, shall maintain the
60 responsibility for the screening, employment, and, if necessary,
61 the termination of child protection team medical directors, at
62 headquarters and in the 15 districts.

63 (2) (a) The Statewide Medical Director for Child Protection
64 must be a physician licensed under chapter 458 or chapter 459
65 who is a board-certified pediatrician with a subspecialty
66 certification in child abuse from the American Board of
67 Pediatrics.

68 (b) Each district medical director must be a physician
69 licensed under chapter 458 or chapter 459 who is a board-
70 certified pediatrician and, within 2 years after the date of his
71 or her employment as a district medical director, either obtains
72 a subspecialty certification in child abuse from the American
73 Board of Pediatrics or meets the minimum requirements
74 established by a third-party credentialing entity recognizing a
75 demonstrated specialized competence in child abuse pediatrics
76 pursuant to paragraph (d). Child protection team medical
77 directors shall be responsible for oversight of the teams in the
78 districts.

79 (c) All medical personnel participating on a child
80 protection team must successfully complete the required child
81 protection team training curriculum as set forth in protocols
82 determined by the Deputy Secretary for Children's Medical
83 Services and the Statewide Medical Director for Child
84 Protection.

85 (d) The Department of Health shall approve one or more
86 third-party credentialing entities for the purpose of developing
87 and administering a professional credentialing program for
88 district medical directors. Within 90 days after receiving
89 documentation from a third-party credentialing entity, the
90 department shall approve a third-party credentialing entity that
91 demonstrates compliance with the following minimum standards:

92 1. Establishment of child abuse pediatrics core
93 competencies, certification standards, testing instruments, and
94 recertification standards according to national psychometric
95 standards.

96 2. Establishment of a process to administer the
97 certification application, award, and maintenance processes
98 according to national psychometric standards.

99 3. Demonstrated ability to administer a professional code
100 of ethics and disciplinary process that applies to all certified
101 persons.

102 4. Establishment of, and ability to maintain, a publicly
103 accessible Internet-based database that contains information on
104 each person who applies for and is awarded certification, such

105 as the person's first and last name, certification status, and
106 ethical or disciplinary history.

107 5. Demonstrated ability to administer biennial continuing
108 education and certification renewal requirements.

109 6. Demonstrated ability to administer an education
110 provider program to approve qualified training entities and to
111 provide precertification training to applicants and continuing
112 education opportunities to certified professionals.

113 (3)(1) The Department of Health shall use and convene the
114 teams to supplement the assessment and protective supervision
115 activities of the family safety and preservation program of the
116 Department of Children and Families. This section does not
117 remove or reduce the duty and responsibility of any person to
118 report pursuant to this chapter all suspected or actual cases of
119 child abuse, abandonment, or neglect or sexual abuse of a child.
120 The role of the teams shall be to support activities of the
121 program and to provide services deemed by the teams to be
122 necessary and appropriate to abused, abandoned, and neglected
123 children upon referral. The specialized diagnostic assessment,
124 evaluation, coordination, consultation, and other supportive
125 services that a child protection team shall be capable of
126 providing include, but are not limited to, the following:

127 (a) Medical diagnosis and evaluation services, including
128 provision or interpretation of X rays and laboratory tests, and
129 related services, as needed, and documentation of related
130 findings.

131 (b) Telephone consultation services in emergencies and in
 132 other situations.

133 (c) Medical evaluation related to abuse, abandonment, or
 134 neglect, as defined by policy or rule of the Department of
 135 Health.

136 (d) Such psychological and psychiatric diagnosis and
 137 evaluation services for the child or the child's parent or
 138 parents, legal custodian or custodians, or other caregivers, or
 139 any other individual involved in a child abuse, abandonment, or
 140 neglect case, as the team may determine to be needed.

141 (e) Expert medical, psychological, and related
 142 professional testimony in court cases.

143 (f) Case staffings to develop treatment plans for children
 144 whose cases have been referred to the team. A child protection
 145 team may provide consultation with respect to a child who is
 146 alleged or is shown to be abused, abandoned, or neglected, which
 147 consultation shall be provided at the request of a
 148 representative of the family safety and preservation program or
 149 at the request of any other professional involved with a child
 150 or the child's parent or parents, legal custodian or custodians,
 151 or other caregivers. In every such child protection team case
 152 staffing, consultation, or staff activity involving a child, a
 153 family safety and preservation program representative shall
 154 attend and participate.

155 (g) Case service coordination and assistance, including
 156 the location of services available from other public and private

157 agencies in the community.

158 (h) Such training services for program and other employees
159 of the Department of Children and Families, employees of the
160 Department of Health, and other medical professionals as is
161 deemed appropriate to enable them to develop and maintain their
162 professional skills and abilities in handling child abuse,
163 abandonment, and neglect cases.

164 (i) Educational and community awareness campaigns on child
165 abuse, abandonment, and neglect in an effort to enable citizens
166 more successfully to prevent, identify, and treat child abuse,
167 abandonment, and neglect in the community.

168 (j) Child protection team assessments that include, as
169 appropriate, medical evaluations, medical consultations, family
170 psychosocial interviews, specialized clinical interviews, or
171 forensic interviews.

172
173 ~~All medical personnel participating on a child protection team~~
174 ~~must successfully complete the required child protection team~~
175 ~~training curriculum as set forth in protocols determined by the~~
176 ~~Deputy Secretary for Children's Medical Services and the~~
177 ~~Statewide Medical Director for Child Protection.~~ A child
178 protection team that is evaluating a report of medical neglect
179 and assessing the health care needs of a medically complex child
180 shall consult with a physician who has experience in treating
181 children with the same condition.

182 (4)~~(2)~~ The child abuse, abandonment, and neglect reports

183 that must be referred by the department to child protection
184 teams of the Department of Health for an assessment and other
185 appropriate available support services as set forth in
186 subsection (3) ~~(1)~~ must include cases involving:

187 (a) Injuries to the head, bruises to the neck or head,
188 burns, or fractures in a child of any age.

189 (b) Bruises anywhere on a child 5 years of age or under.

190 (c) Any report alleging sexual abuse of a child.

191 (d) Any sexually transmitted disease in a prepubescent
192 child.

193 (e) Reported malnutrition of a child and failure of a
194 child to thrive.

195 (f) Reported medical neglect of a child.

196 (g) Any family in which one or more children have been
197 pronounced dead on arrival at a hospital or other health care
198 facility, or have been injured and later died, as a result of
199 suspected abuse, abandonment, or neglect, when any sibling or
200 other child remains in the home.

201 (h) Symptoms of serious emotional problems in a child when
202 emotional or other abuse, abandonment, or neglect is suspected.

203 (5) ~~(3)~~ All abuse and neglect cases transmitted for
204 investigation to a district by the hotline must be
205 simultaneously transmitted to the Department of Health child
206 protection team for review. For the purpose of determining
207 whether face-to-face medical evaluation by a child protection
208 team is necessary, all cases transmitted to the child protection

209 team which meet the criteria in subsection (4) ~~(2)~~ must be
 210 timely reviewed by:

211 (a) A physician licensed under chapter 458 or chapter 459
 212 who holds board certification in pediatrics and is a member of a
 213 child protection team;

214 (b) A physician licensed under chapter 458 or chapter 459
 215 who holds board certification in a specialty other than
 216 pediatrics, who may complete the review only when working under
 217 the direction of a physician licensed under chapter 458 or
 218 chapter 459 who holds board certification in pediatrics and is a
 219 member of a child protection team;

220 (c) An advanced registered nurse practitioner licensed
 221 under chapter 464 who has a specialty in pediatrics or family
 222 medicine and is a member of a child protection team;

223 (d) A physician assistant licensed under chapter 458 or
 224 chapter 459, who may complete the review only when working under
 225 the supervision of a physician licensed under chapter 458 or
 226 chapter 459 who holds board certification in pediatrics and is a
 227 member of a child protection team; or

228 (e) A registered nurse licensed under chapter 464, who may
 229 complete the review only when working under the direct
 230 supervision of a physician licensed under chapter 458 or chapter
 231 459 who holds certification in pediatrics and is a member of a
 232 child protection team.

233 (6) ~~(4)~~ A face-to-face medical evaluation by a child
 234 protection team is not necessary when:

235 (a) The child was examined for the alleged abuse or
 236 neglect by a physician who is not a member of the child
 237 protection team, and a consultation between the child protection
 238 team board-certified pediatrician, advanced registered nurse
 239 practitioner, physician assistant working under the supervision
 240 of a child protection team board-certified pediatrician, or
 241 registered nurse working under the direct supervision of a child
 242 protection team board-certified pediatrician, and the examining
 243 physician concludes that a further medical evaluation is
 244 unnecessary;

245 (b) The child protective investigator, with supervisory
 246 approval, has determined, after conducting a child safety
 247 assessment, that there are no indications of injuries as
 248 described in paragraphs (4) (a)-(h) ~~(2) (a)-(h)~~ as reported; or

249 (c) The child protection team board-certified
 250 pediatrician, as authorized in subsection (5) ~~(3)~~, determines
 251 that a medical evaluation is not required.

252
 253 Notwithstanding paragraphs (a), (b), and (c), a child protection
 254 team pediatrician, as authorized in subsection (5) ~~(3)~~, may
 255 determine that a face-to-face medical evaluation is necessary.

256 (7) ~~(5)~~ In all instances in which a child protection team
 257 is providing certain services to abused, abandoned, or neglected
 258 children, other offices and units of the Department of Health,
 259 and offices and units of the Department of Children and
 260 Families, shall avoid duplicating the provision of those

261 services.

262 (8)~~(6)~~ The Department of Health child protection team
263 quality assurance program and the Family Safety Program Office
264 of the Department of Children and Families shall collaborate to
265 ensure referrals and responses to child abuse, abandonment, and
266 neglect reports are appropriate. Each quality assurance program
267 shall include a review of records in which there are no findings
268 of abuse, abandonment, or neglect, and the findings of these
269 reviews shall be included in each department's quality assurance
270 reports.

271 Section 3. Paragraph (b) of subsection (9) of section
272 768.28, Florida Statutes, is amended, and paragraph (a) of that
273 subsection is republished, to read:

274 768.28 Waiver of sovereign immunity in tort actions;
275 recovery limits; limitation on attorney fees; statute of
276 limitations; exclusions; indemnification; risk management
277 programs.—

278 (9) (a) No officer, employee, or agent of the state or of
279 any of its subdivisions shall be held personally liable in tort
280 or named as a party defendant in any action for any injury or
281 damage suffered as a result of any act, event, or omission of
282 action in the scope of her or his employment or function, unless
283 such officer, employee, or agent acted in bad faith or with
284 malicious purpose or in a manner exhibiting wanton and willful
285 disregard of human rights, safety, or property. However, such
286 officer, employee, or agent shall be considered an adverse

287 witness in a tort action for any injury or damage suffered as a
288 result of any act, event, or omission of action in the scope of
289 her or his employment or function. The exclusive remedy for
290 injury or damage suffered as a result of an act, event, or
291 omission of an officer, employee, or agent of the state or any
292 of its subdivisions or constitutional officers shall be by
293 action against the governmental entity, or the head of such
294 entity in her or his official capacity, or the constitutional
295 officer of which the officer, employee, or agent is an employee,
296 unless such act or omission was committed in bad faith or with
297 malicious purpose or in a manner exhibiting wanton and willful
298 disregard of human rights, safety, or property. The state or its
299 subdivisions shall not be liable in tort for the acts or
300 omissions of an officer, employee, or agent committed while
301 acting outside the course and scope of her or his employment or
302 committed in bad faith or with malicious purpose or in a manner
303 exhibiting wanton and willful disregard of human rights, safety,
304 or property.

305 (b) As used in this subsection, the term:

306 1. "Employee" includes any volunteer firefighter.

307 2. "Officer, employee, or agent" includes, but is not
308 limited to, any health care provider when providing services
309 pursuant to s. 766.1115; any nonprofit independent college or
310 university located and chartered in this state which owns or
311 operates an accredited medical school, and its employees or
312 agents, when providing patient services pursuant to paragraph

313 (10) (f); ~~and~~ any public defender or her or his employee or
314 agent, including, among others, an assistant public defender and
315 an investigator; and any member of a child protection team, as
316 defined in s. 39.01, when carrying out his or her duties as a
317 team member.

318 Section 4. Paragraph (c) is added to subsection (2) of
319 section 458.3175, Florida Statutes, to read:

320 458.3175 Expert witness certificate.—

321 (2) An expert witness certificate authorizes the physician
322 to whom the certificate is issued to do only the following:

323 (c) Provide expert testimony in criminal child abuse and
324 neglect cases in this state.

325 Section 5. Paragraph (c) of subsection (14) of section
326 39.301, Florida Statutes, is amended to read:

327 39.301 Initiation of protective investigations.—

328 (14)

329 (c) The department, in consultation with the judiciary,
330 shall adopt by rule:

331 1. Criteria that are factors requiring that the department
332 take the child into custody, petition the court as provided in
333 this chapter, or, if the child is not taken into custody or a
334 petition is not filed with the court, conduct an administrative
335 review. Such factors must include, but are not limited to,
336 noncompliance with a safety plan or the case plan developed by
337 the department, and the family under this chapter, and prior
338 abuse reports with findings that involve the child, the child's

339 sibling, or the child's caregiver.

340 2. Requirements that if after an administrative review the
341 department determines not to take the child into custody or
342 petition the court, the department shall document the reason for
343 its decision in writing and include it in the investigative
344 file. For all cases that were accepted by the local law
345 enforcement agency for criminal investigation pursuant to
346 subsection (2), the department must include in the file written
347 documentation that the administrative review included input from
348 law enforcement. In addition, for all cases that must be
349 referred to child protection teams pursuant to s. 39.303(4) and
350 (5) ~~39.303(2) and (3)~~, the file must include written
351 documentation that the administrative review included the
352 results of the team's evaluation.

353 Section 6. For the purpose of incorporating the amendments
354 made by this act to section 39.303, Florida Statutes, in a
355 reference thereto, section 39.3031, Florida Statutes, is
356 reenacted to read:

357 39.3031 Rules for implementation of s. 39.303.—The
358 Department of Health, in consultation with the Department of
359 Children and Families, shall adopt rules governing the child
360 protection teams pursuant to s. 39.303, including definitions,
361 organization, roles and responsibilities, eligibility, services
362 and their availability, qualifications of staff, and a waiver-
363 request process.

364 Section 7. For the purpose of incorporating the amendments

365 made by this act to section 39.303, Florida Statutes, in a
366 reference thereto, subsection (2) of section 391.026, Florida
367 Statutes, is reenacted to read:

368 391.026 Powers and duties of the department.—The
369 department shall have the following powers, duties, and
370 responsibilities:

371 (2) To provide services to abused and neglected children
372 through child protection teams pursuant to s. 39.303.

373 Section 8. This act shall take effect July 1, 2015.