

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. 459.0066,  
19          F.S.; providing that an osteopathic physician who  
20          holds an expert witness certificate may provide expert  
21          testimony in criminal child abuse and neglect cases;  
22          amending ss. 39.301 and 827.03, F.S.; conforming  
23          provisions to changes made by the act; reenacting ss.  
24          39.3031 and 391.026(2), F.S., relating to child  
25          protection teams, to incorporate the amendments made  
26          by the act to s. 39.303, F.S., in references thereto;

27 | providing an effective date.

28 |

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

30 |

31 | Section 1. Subsection (3) of section 39.2015, Florida  
32 | Statutes, is amended to read:

33 | 39.2015 Critical incident rapid response team.—

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

47 | Section 2. Section 39.303, Florida Statutes, is amended to  
48 | read:

49 | 39.303 Child protection teams; services; eligible cases.—

50 | (1) The Children's Medical Services Program in the  
51 | Department of Health shall develop, maintain, and coordinate the  
52 | services of one or more multidisciplinary child protection teams

53 | in each of the service districts of the Department of Children  
54 | and Families. Such teams may be composed of appropriate  
55 | representatives of school districts and appropriate health,  
56 | mental health, social service, legal service, and law  
57 | enforcement agencies. The Department of Health and the  
58 | Department of Children and Families shall maintain an  
59 | interagency agreement that establishes protocols for oversight  
60 | and operations of child protection teams and sexual abuse  
61 | treatment programs. The State Surgeon General and the Deputy  
62 | Secretary for Children's Medical Services, in consultation with  
63 | the Secretary of Children and Families, shall maintain the  
64 | responsibility for the screening, employment, and, if necessary,  
65 | the termination of child protection team medical directors, at  
66 | headquarters and in the 15 districts.

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

72 |       (b) Each district medical director must be a physician  
73 | licensed under chapter 458 or chapter 459 who is a board-  
74 | certified pediatrician and, within 2 years after the date of his  
75 | or her employment as a district medical director, either obtains  
76 | a subspecialty certification in child abuse from the American  
77 | Board of Pediatrics or meets the minimum requirements  
78 | established by a third-party credentialing entity recognizing a

79 demonstrated specialized competence in child abuse pediatrics  
80 pursuant to paragraph (d). Child protection team medical  
81 directors shall be responsible for oversight of the teams in the  
82 districts.

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

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

96 1. Establishment of child abuse pediatrics core  
97 competencies, certification standards, testing instruments, and  
98 recertification standards according to national psychometric  
99 standards.

100 2. Establishment of a process to administer the  
101 certification application, award, and maintenance processes  
102 according to national psychometric standards.

103 3. Demonstrated ability to administer a professional code  
104 of ethics and disciplinary process that applies to all certified

105 persons.

106 4. Establishment of, and ability to maintain, a publicly  
107 accessible Internet-based database that contains information on  
108 each person who applies for and is awarded certification, such  
109 as the person's first and last name, certification status, and  
110 ethical or disciplinary history.

111 5. Demonstrated ability to administer biennial continuing  
112 education and certification renewal requirements.

113 6. Demonstrated ability to administer an education  
114 provider program to approve qualified training entities and to  
115 provide precertification training to applicants and continuing  
116 education opportunities to certified professionals.

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

131 (a) Medical diagnosis and evaluation services, including  
132 provision or interpretation of X rays and laboratory tests, and  
133 related services, as needed, and documentation of related  
134 findings.

135 (b) Telephone consultation services in emergencies and in  
136 other situations.

137 (c) Medical evaluation related to abuse, abandonment, or  
138 neglect, as defined by policy or rule of the Department of  
139 Health.

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

145 (e) Expert medical, psychological, and related  
146 professional testimony in court cases.

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

157 family safety and preservation program representative shall  
158 attend and participate.

159 (g) Case service coordination and assistance, including  
160 the location of services available from other public and private  
161 agencies in the community.

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

168 (i) Educational and community awareness campaigns on child  
169 abuse, abandonment, and neglect in an effort to enable citizens  
170 more successfully to prevent, identify, and treat child abuse,  
171 abandonment, and neglect in the community.

172 (j) Child protection team assessments that include, as  
173 appropriate, medical evaluations, medical consultations, family  
174 psychosocial interviews, specialized clinical interviews, or  
175 forensic interviews.

176  
177 ~~All medical personnel participating on a child protection team~~  
178 ~~must successfully complete the required child protection team~~  
179 ~~training curriculum as set forth in protocols determined by the~~  
180 ~~Deputy Secretary for Children's Medical Services and the~~  
181 ~~Statewide Medical Director for Child Protection.~~ A child  
182 protection team that is evaluating a report of medical neglect

183 and assessing the health care needs of a medically complex child  
184 shall consult with a physician who has experience in treating  
185 children with the same condition.

186 (4)~~(2)~~ The child abuse, abandonment, and neglect reports  
187 that must be referred by the department to child protection  
188 teams of the Department of Health for an assessment and other  
189 appropriate available support services as set forth in  
190 subsection (3) ~~(1)~~ must include cases involving:

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

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

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

195 (d) Any sexually transmitted disease in a prepubescent  
196 child.

197 (e) Reported malnutrition of a child and failure of a  
198 child to thrive.

199 (f) Reported medical neglect of a child.

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

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

207 (5)~~(3)~~ All abuse and neglect cases transmitted for  
208 investigation to a district by the hotline must be



209 | simultaneously transmitted to the Department of Health child  
210 | protection team for review. For the purpose of determining  
211 | whether face-to-face medical evaluation by a child protection  
212 | team is necessary, all cases transmitted to the child protection  
213 | team which meet the criteria in subsection (4) ~~(2)~~ must be  
214 | timely reviewed by:

215 |       (a) A physician licensed under chapter 458 or chapter 459  
216 | who holds board certification in pediatrics and is a member of a  
217 | child protection team;

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

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

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

232 |       (e) A registered nurse licensed under chapter 464, who may  
233 | complete the review only when working under the direct  
234 | supervision of a physician licensed under chapter 458 or chapter

235 459 who holds certification in pediatrics and is a member of a  
236 child protection team.

237 (6)~~(4)~~ A face-to-face medical evaluation by a child  
238 protection team is not necessary when:

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

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

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

256

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

260 (7)~~(5)~~ In all instances in which a child protection team

261 is providing certain services to abused, abandoned, or neglected  
 262 children, other offices and units of the Department of Health,  
 263 and offices and units of the Department of Children and  
 264 Families, shall avoid duplicating the provision of those  
 265 services.

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

275 Section 3. Paragraph (b) of subsection (9) of section  
 276 768.28, Florida Statutes, is amended, and paragraph (a) of that  
 277 subsection is republished, to read:

278 768.28 Waiver of sovereign immunity in tort actions;  
 279 recovery limits; limitation on attorney fees; statute of  
 280 limitations; exclusions; indemnification; risk management  
 281 programs.—

282 (9) (a) No officer, employee, or agent of the state or of  
 283 any of its subdivisions shall be held personally liable in tort  
 284 or named as a party defendant in any action for any injury or  
 285 damage suffered as a result of any act, event, or omission of  
 286 action in the scope of her or his employment or function, unless

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

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

310 1. "Employee" includes any volunteer firefighter.

311 2. "Officer, employee, or agent" includes, but is not  
312 limited to, any health care provider when providing services

313 pursuant to s. 766.1115; any nonprofit independent college or  
 314 university located and chartered in this state which owns or  
 315 operates an accredited medical school, and its employees or  
 316 agents, when providing patient services pursuant to paragraph  
 317 (10) (f); ~~and~~ any public defender or her or his employee or  
 318 agent, including, among others, an assistant public defender and  
 319 an investigator; and any member of a child protection team, as  
 320 defined in s. 39.01, when carrying out his or her duties as a  
 321 team member.

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

324 458.3175 Expert witness certificate.—

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

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

329 Section 5. Paragraph (c) is added to subsection (2) of  
 330 section 459.0066, Florida Statutes, to read:

331 459.0066 Expert witness certificate.—

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

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

336 Section 6. Paragraph (c) of subsection (14) of section  
 337 39.301, Florida Statutes, is amended to read:

338 39.301 Initiation of protective investigations.—

339 (14)

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

342 1. Criteria that are factors requiring that the department  
343 take the child into custody, petition the court as provided in  
344 this chapter, or, if the child is not taken into custody or a  
345 petition is not filed with the court, conduct an administrative  
346 review. Such factors must include, but are not limited to,  
347 noncompliance with a safety plan or the case plan developed by  
348 the department, and the family under this chapter, and prior  
349 abuse reports with findings that involve the child, the child's  
350 sibling, or the child's caregiver.

351 2. Requirements that if after an administrative review the  
352 department determines not to take the child into custody or  
353 petition the court, the department shall document the reason for  
354 its decision in writing and include it in the investigative  
355 file. For all cases that were accepted by the local law  
356 enforcement agency for criminal investigation pursuant to  
357 subsection (2), the department must include in the file written  
358 documentation that the administrative review included input from  
359 law enforcement. In addition, for all cases that must be  
360 referred to child protection teams pursuant to s. 39.303(4) and  
361 (5) ~~39.303(2) and (3)~~, the file must include written  
362 documentation that the administrative review included the  
363 results of the team's evaluation.

364 Section 7. Paragraphs (a) and (b) of subsection (3) of

365 section 827.03, Florida Statutes, are amended to read:

366 827.03 Abuse, aggravated abuse, and neglect of a child;  
367 penalties.—

368 (3) EXPERT TESTIMONY.—

369 (a) Except as provided in paragraph (b), a physician may  
370 not provide expert testimony in a criminal child abuse case  
371 unless the physician is a physician licensed under chapter 458  
372 or chapter 459 or has obtained certification as an expert  
373 witness pursuant to s. 458.3175 or s. 459.0066.

374 (b) A physician may not provide expert testimony in a  
375 criminal child abuse case regarding mental injury unless the  
376 physician is a physician licensed under chapter 458 or chapter  
377 459 who has completed an accredited residency in psychiatry or  
378 has obtained certification as an expert witness pursuant to s.  
379 458.3175 or s. 459.0066.

380 Section 8. For the purpose of incorporating the amendments  
381 made by this act to section 39.303, Florida Statutes, in a  
382 reference thereto, section 39.3031, Florida Statutes, is  
383 reenacted to read:

384 39.3031 Rules for implementation of s. 39.303.—The  
385 Department of Health, in consultation with the Department of  
386 Children and Families, shall adopt rules governing the child  
387 protection teams pursuant to s. 39.303, including definitions,  
388 organization, roles and responsibilities, eligibility, services  
389 and their availability, qualifications of staff, and a waiver-  
390 request process.

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391 Section 9. For the purpose of incorporating the amendments  
392 made by this act to section 39.303, Florida Statutes, in a  
393 reference thereto, subsection (2) of section 391.026, Florida  
394 Statutes, is reenacted to read:

395 391.026 Powers and duties of the department.—The  
396 department shall have the following powers, duties, and  
397 responsibilities:

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

400 Section 10. This act shall take effect July 1, 2015.