

West's F.S.A. § 39.201



West's Florida Statutes Annotated [Currentness](#)

Title V. Judicial Branch (Chapters 25-44) ([Refs & Annos](#))

[Chapter 39](#). Proceedings Relating to Children ([Refs & Annos](#))

[Part II](#). **Reporting Child Abuse**

→39.201. Mandatory reports of child abuse, abandonment, or neglect; mandatory reports of death; central abuse hotline

(1) (a) Any person who knows, or has reasonable cause to suspect, that a child is abused, abandoned, or neglected by a parent, legal custodian, caregiver, or other person responsible for the child's welfare, as defined in this chapter, shall report such knowledge or suspicion to the department in the manner prescribed in subsection (2).

(b) Reporters in the following occupation categories are required to provide their names to the hotline staff:

1. Physician, osteopathic physician, medical examiner, chiropractic physician, nurse, or hospital personnel engaged in the admission, examination, care, or treatment of persons;
2. Health or mental health professional other than one listed in subparagraph 1.;
3. Practitioner who relies solely on spiritual means for healing;
4. School teacher or other school official or personnel;
5. Social worker, day care center worker, or other professional child care, foster care, residential, or institutional worker;
6. Law enforcement officer; or
7. Judge.

The names of reporters shall be entered into the record of the report, but shall be held confidential and exempt as provided in [s. 39.202](#).

(c) A professional who is hired by or enters into a contract with the department for the purpose of treating or counseling any person, as a result of a report of child abuse, abandonment, or neglect, is not required to again report to the central abuse hotline the abuse, abandonment, or neglect that was the subject of the referral for treatment.

(d) An officer or employee of the judicial branch is not required to again provide notice of reasonable cause to suspect child abuse, abandonment, or neglect when that child is currently being investigated by the department, there is an existing dependency case, or the matter has previously been reported to the department, provided there is reasonable cause to believe the information is already known to the department. This paragraph applies only when the information has been provided to the officer or employee in the course of carrying out his or her official duties.

(e) Nothing in this chapter or in the contracting with community-based care providers for foster care and related services as specified in [s. 409.1671](#) shall be construed to remove or reduce the duty and responsibility of any person, including any employee of the community-based care provider, to report a suspected or actual case of child abuse, abandonment, or neglect or the sexual abuse of a child to the department's central abuse hotline.

(2) (a) Each report of known or suspected child abuse, abandonment, or neglect by a parent, legal custodian,

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caregiver, or other person responsible for the child's welfare as defined in this chapter, except those solely under [s. 827.04\(3\)](#), shall be made immediately to the department's central abuse hotline on the single statewide toll-free telephone number. Personnel at the department's central abuse hotline shall determine if the report received meets the statutory definition of child abuse, abandonment, or neglect. Any report meeting one of these definitions shall be accepted for the protective investigation pursuant to part III of this chapter.

(b) If the report is of an instance of known or suspected child abuse by someone other than a parent, legal custodian, caregiver, or other person responsible for the child's welfare as defined in this chapter, the call shall be immediately electronically transferred to the appropriate county sheriff's office by the central abuse hotline.

(c) If the report is of an instance of known or suspected child abuse, abandonment, or neglect that occurred out of state and the alleged perpetrator and the child alleged to be a victim live out of state, the central abuse hotline shall not accept the call for investigation, but shall transfer the information on the report to the appropriate state.

(d) If the report is of an instance of known or suspected child abuse involving impregnation of a child under 16 years of age by a person 21 years of age or older solely under [s. 827.04\(3\)](#), the report shall be made immediately to the appropriate county sheriff's office or other appropriate law enforcement agency. If the report is of an instance of known or suspected **child abuse** solely under [s. 827.04\(3\)](#), the **reporting** provisions of this subsection do not apply to health care professionals or other persons who provide medical or counseling services to pregnant children when such **reporting** would interfere with the provision of medical services.

(e) Reports involving known or suspected institutional child abuse or neglect shall be made and received in the same manner as all other reports made pursuant to this section.

(f) Reports involving a known or suspected juvenile sexual offender shall be made and received by the department.

1. The department shall determine the age of the alleged juvenile sexual offender if known.

2. When the alleged juvenile sexual offender is 12 years of age or younger, the central abuse hotline shall immediately electronically transfer the call to the appropriate law enforcement agency office. The department shall conduct an assessment and assist the family in receiving appropriate services pursuant to [s. 39.307](#), and send a written report of the allegation to the appropriate county sheriff's office within 48 hours after the initial report is made to the central abuse hotline.

3. When the alleged juvenile sexual offender is 13 years of age or older, the department shall immediately electronically transfer the call to the appropriate county sheriff's office by the central abuse hotline, and send a written report to the appropriate county sheriff's office within 48 hours after the initial report to the central abuse hotline.

(g) Reports involving abandoned newborn infants as described in [s. 383.50](#) shall be made and received by the department.

1. If the report is of an abandoned newborn infant as described in [s. 383.50](#) and there is no indication of abuse, neglect, or abandonment other than that necessarily entailed in the infant having been left at a hospital, emergency medical services station, or fire station, the department shall provide to the caller the name of a licensed child-placing agency on a rotating basis from a list of licensed child-placing agencies eligible and required to accept physical custody of and to place newborn infants left at a hospital, emergency medical services station, or fire station. The report shall not be considered a report of abuse, neglect, or abandonment solely because the infant has been left at a hospital, emergency medical services station, or fire station pursuant to [s. 383.50](#).

2. If the caller reports indications of abuse or neglect beyond that necessarily entailed in the infant having been left at a hospital, emergency medical services station, or fire station, the report shall be considered as a report of abuse, neglect, or abandonment and shall be subject to the requirements of [s. 39.395](#) and all other relevant provisions of this chapter, notwithstanding any provisions of chapter 383.

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(h) Hotline counselors shall receive periodic training in encouraging reporters to provide their names when reporting abuse, abandonment, or neglect. Callers shall be advised of the confidentiality provisions of [s. 39.202](#). The department shall secure and install electronic equipment that automatically provides to the hotline the number from which the call is placed. This number shall be entered into the report of abuse, abandonment, or neglect and become a part of the record of the report, but shall enjoy the same confidentiality as provided to the identity of the caller pursuant to [s. 39.202](#).

(i) The department shall voice-record all incoming or outgoing calls that are received or placed by the central abuse hotline which relate to suspected or known child abuse, neglect, or abandonment. The recording shall become a part of the record of the report but, notwithstanding [s. 39.202](#), shall be released in full only to law enforcement agencies and state attorneys for the purpose of investigating and prosecuting criminal charges pursuant to [s. 39.205](#), or to employees of the department for the purpose of investigating and seeking administrative penalties pursuant to [s. 39.206](#). Nothing in this paragraph shall prohibit the use of the recordings by hotline staff for quality assurance and training.

(3) Any person required to report or investigate cases of suspected child abuse, abandonment, or neglect who has reasonable cause to suspect that a child died as a result of child abuse, abandonment, or neglect shall report his or her suspicion to the appropriate medical examiner. The medical examiner shall accept the report for investigation and shall report his or her findings, in writing, to the local law enforcement agency, the appropriate state attorney, and the department. Autopsy reports maintained by the medical examiner are not subject to the confidentiality requirements provided for in [s. 39.202](#).

(4) The department shall establish and maintain a central abuse hotline to receive all reports made pursuant to this section in writing or through a single statewide toll-free telephone number, which any person may use to report known or suspected child abuse, abandonment, or neglect at any hour of the day or night, any day of the week. The central abuse hotline shall be operated in such a manner as to enable the department to:

(a) Immediately identify and locate prior reports or cases of child abuse, abandonment, or neglect through utilization of the department's automated tracking system.

(b) Monitor and evaluate the effectiveness of the department's program for reporting and investigating suspected abuse, abandonment, or neglect of children through the development and analysis of statistical and other information.

(c) Track critical steps in the investigative process to ensure compliance with all requirements for any report of abuse, abandonment, or neglect.

(d) Maintain and produce aggregate statistical reports monitoring patterns of child abuse, child abandonment, and child neglect. The department shall collect and analyze child-on-child sexual abuse reports and include the information in aggregate statistical reports.

(e) Serve as a resource for the evaluation, management, and planning of preventive and remedial services for children who have been subject to abuse, abandonment, or neglect.

(f) Initiate and enter into agreements with other states for the purpose of gathering and sharing information contained in reports on child maltreatment to further enhance programs for the protection of children.

(5) The department shall be capable of receiving and investigating reports of known or suspected child abuse, abandonment, or neglect 24 hours a day, 7 days a week. If it appears that the immediate safety or well-being of a child is endangered, that the family may flee or the child will be unavailable for purposes of conducting a child protective investigation, or that the facts otherwise so warrant, the department shall commence an investigation immediately, regardless of the time of day or night. In all other child abuse, abandonment, or neglect cases, a child protective investigation shall be commenced within 24 hours after receipt of the report. In an institutional investigation, the alleged perpetrator may be represented by an attorney, at his or her own expense, or accompanied by another person, if the person or the attorney executes an affidavit of understanding with the department and

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agrees to comply with the confidentiality provisions of [s. 39.202](#). The absence of an attorney or other person does not prevent the department from proceeding with other aspects of the investigation, including interviews with other persons. In institutional child abuse cases when the institution is not operating and the child cannot otherwise be located, the investigation shall commence immediately upon the resumption of operation. If requested by a state attorney or local law enforcement agency, the department shall furnish all investigative reports to that agency.

(6) Information in the central abuse hotline may not be used for employment screening, except as provided in [s. 39.202\(2\)\(a\)](#) and [\(h\)](#). Information in the central abuse hotline and the department's automated abuse information system may be used by the department, its authorized agents or contract providers, the Department of Health, or county agencies as part of the licensure or registration process pursuant to [ss. 402.301-402.319](#) and [ss. 409.175-409.176](#).

(7) On an ongoing basis, the department's quality assurance program shall review calls to the hotline involving three or more unaccepted reports on a single child, where jurisdiction applies, in order to detect such things as harassment and situations that warrant an investigation because of the frequency or variety of the source of the reports. The Program Director for Family Safety may refer a case for investigation when it is determined, as a result of this review, that an investigation may be warranted.

CREDIT(S)

Laws 1963, c. 63-24, § § 1 to 6; Laws 1971, c. 71-97, § § 1, 1A; Laws 1971, c. 71-136, § 941; Laws 1973, c. 73-334, § 32; [Fla.St.1973, § 828.041](#); Laws 1974, c. 74-383, § 65; Laws 1975, c. 75-101, § 1; Laws 1975, c. 75-185, § 1; Laws 1976, c. 76-237, § 4; Laws 1977, c. 77-77, § 1; Laws 1977, c. 77-429, § 3; Laws 1978, c. 78-322, § § 1, 2; Laws 1978, c. 78-326, § 3; Laws 1978, c. 78-361, § 22; Laws 1978, c. 78-379, § 1; Laws 1979, c. 79-164, § 181; Laws 1979, c. 79-203, § 1; [Fla.St.1981, § 827.07\(3\), \(4\), \(9\), \(13\)](#); Laws 1984, c. 84-226, § 7; Laws 1985, c. 85-54, § 37; Laws 1986, c. 86-163, § 68; [Laws 1987, c. 87-238, § 34](#); [Laws 1988, c. 88-337, § 21](#); [Laws 1989, c. 89-294, § 33](#); [Laws 1990, c. 90-50, § 6](#); [Laws 1990, c. 90-306, § 51](#); [Laws 1991, c. 91-57, § 7](#); [Laws 1991, c. 91-71, § 17](#); [Laws 1993, c. 93-25, § 6](#); [Laws 1994, c. 94-164, § 59](#); [Laws 1995, c. 95-228, § § 22, 44](#); [Laws 1995, c. 95-266, § 9](#); [Laws 1995, c. 95-267, § 51](#); [Laws 1995, c. 95-418, § 133](#); [Laws 1996, c. 96-215, § 1](#); [Laws 1996, c. 96-268, § 14](#); [Laws 1996, c. 96-402, § 14](#); [Laws 1996, c. 96-406, § 271](#); [Laws 1997, c. 97-103, § 1041](#); [Laws 1997, c. 97-264, § 43](#); [Fla.St.1997, § 415.504](#). Amended by [Laws 1998, c. 98-166, § 257, eff. July 1, 1998](#). Renumbered as 39.201 and amended by [Laws 1998, c. 98-403, § 31, eff. Oct. 1, 1998](#). Amended by [Laws 1999, c. 99-168, § 4, eff. July 1, 1999](#); [Laws 1999, c. 99-193, § 10, eff. July 1, 1999](#); [Laws 2000, c. 2000-139, § 41, eff. July 1, 2000](#); [Laws 2000, c. 2000-188, § 3, eff. July 1, 2000](#); [Laws 2000, c. 2000-217, § 1, eff. June 5, 2000](#); [Laws 2001, c. 2001-53, § 1, July 1, 2001](#); [Laws 2003, c. 2003-127, § 1, eff. June 10, 2003](#).

HISTORICAL AND STATUTORY NOTES

Amendment Notes:

Laws 1984, c. 84-226, § 7, provided for substitution in the former second sentence of subsec. (4)(c) "or other computer systems or records that is maintained in unfounded reports shall be expunged within thirty days after the case is classified as unfounded" for "maintained in unfounded reports shall be expunged immediately".

Laws 1985, c. 85-54, § 37, eff. July 1, 1985, amending subsec. (4), rewrote par. (c) and added pars. (d) and (e). Prior to amendment, par. (c) provided:

"Upon completion of its investigation, the local office of the department shall classify reports as "indicated" or "unfounded." All identifying information in the abuse registry or other computer systems or records that is maintained in unfounded reports shall be expunged within 30 days after the case is classified as unfounded. All identifying information in the abuse registry maintained in indicated reports shall be expunged from the registry 7 years from the date of the last indicated report concerning the same child, siblings, or the same perpetrator. All information, other than identifying information, maintained in indicated or unfounded reports at the time of expunction shall be disposed of in a manner deemed appropriate by the department and pursuant to ss. 119.041 and 267.051(6). Nothing in this section is intended to require the expunction or destruction of case records or

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information required by the Federal Government to be retained for future audit."

Laws 1986, c. 86-163, § 68, eff. July 1, 1986, changed the statute reference at the end of subsec. (4)(c).

Laws 1987, c. 87-238, § 34, eff. July 1, 1987, rewrote pars. (c) and (d) of subsec. (4), which formerly read:

"(c) Upon completion of its investigation, the local office of the department shall classify reports as 'indicated' or 'unfounded.' At this time the department shall notify the parent or guardian of the child, the child if appropriate, and the alleged perpetrator if other than the child's parent or guardian, of the completion of its investigation of the report and whether the report is classified as 'indicated' or 'unfounded.' All identifying information in the abuse registry or other computer systems or records that is maintained in unfounded reports shall be expunged within 30 days after the case is classified as 'unfounded.' All information, other than identifying information, maintained in indicated or unfounded reports at the time of expunction shall be disposed of in a manner deemed appropriate by the department and pursuant to ss. 119.041 and 257.36(7).

"(d) At any time subsequent to the completion of the department's investigation, any subject of an indicated report may request the secretary to amend or expunge the case record and all identifying information in the abuse registry or other computer systems or records pertaining to that report on the grounds that the record is inaccurate or is being maintained in a manner inconsistent with ss. 415.501-415.514. If the secretary refuses or does not act within 30 days after receiving such a request, the subject shall have the right to an administrative hearing to contest whether the record of the report should be amended or expunged."

Laws 1988, c. 88-337, § 21, eff. Oct. 1, 1988, substantially rewrote subsecs. (2) and (4) to require child abuse and neglect reports to go to the central abuse registry and tracking system, delineated functions of the central abuse registry and tracking system, provided procedures and time frames for notification of district staff, provided for indexing of certain information, and provided for confidentiality of reports in the administrative hearing process.

Laws 1989, c. 89-294, § 33, in subsec. (4), substituted "after the receipt" for "from the" following "7 years" in the fourth sentence, inserted the fifth sentence, and deleted "alleged" preceding "perpetrators" in the eighth sentence of par. (c), and inserted the fourth sentence, deleted "alleged" preceding "perpetrator" in the fifth sentence, and inserted "of a confirmed report" following "perpetrator" throughout par. (d)5.

Laws 1989, c. 89-294, provided therein that the law, except for § § 5 to 7, take effect July 1, 1989; however, approval by the governor occurred subsequent thereto. The Florida Supreme Court in an [advisory opinion to the governor of July 19, 1979 \(374 So.2d 959\)](#) stated in part " * * * the effective date provided in the bill is inoperative unless the bill becomes law on or before that date" and concludes that under such circumstances the provision of Const.Art. 3, § 9, that the law take effect on the sixtieth day after adjournment sine die of the session of the legislature in which enacted, is applicable.

Laws 1990, c. 90-50, § 6, eff. June 11, 1990, in subsec. (4)(c), inserted subpar. 1., and redesignated the former paragraph as subpar. 2., substituted references to proposed confirmed, indicated-perpetrator undetermined classifications for references to confirmed and indicated classifications throughout, substituted references to indicated-perpetrator undetermined reports for references to indicated reports throughout, substituted "In the case of proposed confirmed reports," for "At the time" at the beginning of the second sentence, substituted "within 30 days" for "1 year" following "expunged" in the third sentence, and made nonsubstantive changes; and in subsec. (4)(d), substituted references to proposed confirmed reports and proposed classifications for references to confirmed reports and classifications throughout, inserted subpar. 3.a. and redesignated former subpars. 3.a. to 3.f. as subpars. 3.b. to 3.g., substituted "That the department intends to classify the report" for "the report has been classified" in subpar. 3.b., rewrote the first sentence of subpar. 4., which formerly read "Failure to respond within the time specified in subparagraph 3. means that the alleged perpetrator agrees not to contest the classification of the report.", substituted "determine the classification of the report" for "contest whether the record of the report should be amended or expunged" at the end of the second sentence, substituted "the alleged perpetrator may" for "the failure to timely ask shall mean that the perpetrator agrees" following "hearing," in the fifth sentence, substituted "must be classified as confirmed in the central abuse registry and tracking system" for "shall remain as confirmed" at the end of the sixth sentence, substituted "indicated-perpetrator undetermined report shall not" for "indicated report shall not have the

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right to" following "named in an" in the seventh sentence of subpar. 5., and made nonsubstantive changes.

Laws 1990, c. 90-50, § 9, eff. June 11, 1990, provides:

"Within 30 days after [June 11, 1990], all identifying information in the central abuse registry and tracking system or other computer systems or records of the Department of Health and Rehabilitative Services that is related to an existing unfounded report must be expunged."

Laws 1990, c. 90-306, § 51, eff. July 3, 1990, in subsec. (2), added ", and, if the report is of an instance of known or suspected child abuse by a noncaretaker, it shall also be made immediately to the local law enforcement agency" at the end of par. (a); and in subsec. (4), inserted par. (a)6., and rewrote pars. (c) and (d), which formerly read:

"(c) Upon completion of its investigation, the local office of the department shall classify reports as 'confirmed,' 'indicated,' or 'unfounded.' At this time the department shall notify the parent or guardian of the child, the child if appropriate, and the alleged perpetrator, if other than the child's parent or guardian, of the completion of its investigation of the report and whether the report is classified as 'confirmed,' 'indicated,' or 'unfounded.' All identifying information in the central abuse registry and tracking system or other computer systems or records that is related to unfounded reports shall be expunged 1 year after the case is classified as 'unfounded.' All identifying information in the central abuse registry and tracking system or other computer systems or records that is related to an indicated report shall be expunged from the central abuse registry and tracking system 7 years after the receipt date of the last indicated report concerning any person named in the report. Computer records of a confirmed report shall be retained for 50 years from the receipt date of the report. All information, other than identifying information, related to indicated or unfounded reports at the time of expunction shall be disposed of in a manner deemed appropriate by the department and pursuant to ss. 119.041 and 257.36(7). Unfounded reports shall only be indexed by the name of the child to detect patterns of abuse or neglect. Persons named in the unfounded or indicated reports shall not be identified as perpetrators. All information in the central abuse registry and tracking system or other computer systems or records shall be subject to the confidentiality provisions in s. 415.51.

"(d)1. Where it is shown that the record is inaccurate or inconsistent with ss. 415.501-415.514, the department shall amend or expunge the record. The department shall notify the parent or guardian of the child, the child if appropriate, and the alleged perpetrator, if other than the child's parent or guardian, of what amendment is made to the record or of the expunction of the record.

"2. Subsequent to the completion of the department's investigation, any alleged perpetrator of a confirmed report may request the secretary to amend or expunge the case record and all identifying information in the central abuse registry and tracking system or other computer systems or records pertaining to that report on the grounds that the record is inaccurate or is being maintained in a manner inconsistent with ss. 415.501-415.514.

"3. Notice to the alleged perpetrator of a confirmed report shall state that:

"a. The report has been classified as confirmed;

"b. The alleged perpetrator of a confirmed report may be disqualified from working with children or the developmentally disabled or from working in sensitive positions involving the care of children, the developmentally disabled, disabled adults, or aged persons;

"c. The alleged perpetrator may request amendment or expunction of the confirmed report, if the alleged perpetrator does not agree with the classification;

"d. The request by the alleged perpetrator for amendment or expunction of the confirmed report must be received by the department within 30 days after the alleged perpetrator receives notice of the classification of the report;

"e. The alleged perpetrator can obtain more information by calling the person whose name and telephone number are provided in the notice; and

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"f. The failure to timely ask for amendment or expunction means the alleged perpetrator agrees not to contest the classification of the report.

"Notice to the alleged perpetrator shall be sent by certified mail.

"4. Failure to respond within the time specified in subparagraph 3. means that the alleged perpetrator agrees not to contest the classification of the report. The alleged perpetrator may within 1 year of the classification of the report as confirmed request the department to set aside a confirmed report where it can be shown that the failure to ask for amendment or expunction was due to excusable neglect or fraud. The standard for excusable neglect or fraud shall be as provided in the Florida Rules of Civil Procedure.

"5. If the alleged perpetrator of a confirmed report asks for amendment or expunction, the secretary may amend or expunge the record. If the secretary refuses or does not act within 30 days after receiving such a request, the alleged perpetrator of a confirmed report shall have the right to an administrative hearing to contest whether the record of the report should be amended or expunged. At the chapter 120 hearing the department shall prove by a preponderance of evidence that the perpetrator committed the abuse or neglect. The department's investigative report shall be considered competent evidence at the chapter 120 hearing, and the technical rules of evidence shall not exclude such report. If the secretary refuses to amend or expunge and the alleged perpetrator of a confirmed report fails to timely ask for an administrative hearing, the failure to timely ask shall mean that the perpetrator agrees not to contest the secretary's decision and the findings of the confirmed report of abuse or neglect. If the secretary refuses to amend or expunge and the alleged perpetrator of a confirmed report asks for an administrative hearing and the department's classification is upheld, the report shall remain as confirmed. Any person who is named in an indicated report shall not have the right to challenge the department's classification system through the department or through an administrative hearing under chapter 120.

"6. The confidentiality of the abuse or neglect report shall, to the extent possible, be maintained during the administrative hearing process. The administrative hearing shall be closed, the administrative files shall be closed and not disclosed to the public under s. 119.07(1), and any identifying information in the recommended or final order shall be deleted prior to publishing pursuant to chapter 120.

"(e) Nothing in this section is intended to require the expunction or destruction of case records or information required by the Federal Government to be retained for future audit."

Laws 1990, c. 90-306, § 64 provides:

"Regardless of other provisions in this act to the contrary, sections 45 and 51 of this act shall not take effect unless appropriations are provided to fund the provisions of said sections".

Laws 1991, c. 91-57, § 7, eff. May 9, 1991, deleted provisions relating to indicated perpetrator undetermined throughout the section; in subsec. (2)(a), substituted "the call shall be immediately electronically transferred to the appropriate county sheriff's office by the central abuse registry and tracking system" for "it shall also be made immediately to the local law enforcement agency"; in subsec. (4)(c)2, inserted "unless the report is closed without classification"; inserted subsec. (4)(f), redesignated former subsec. (4)(f) as (4)(g), and added subsec. (4)(h).

Laws 1991, c. 91-71, § 17, eff. Oct. 1, 1991, in subsec. (4)(d)4., in the second sentence, substituted "confidential and exempt from the provisions of" for "closed and not disclosed to the public under", and added the third sentence; and, in subsec. (4)(e), added the last sentence.

Laws 1993, c. 93-25, § 6, eff. Oct. 1, 1993, in subsec. (4), rewrote par. (b); and, in par. (c)1., inserted "under this part".

Laws 1994, c. 94-164, § 59, eff. Oct. 1, 1994, in subsec. (2), added par. (d); in subsec. (4), in par. (a)4, added the last sentence; in par. (c)1, inserted sub-subpar. j and redesignated former j as k; and added subsec. (5).

Laws 1995, c. 95-228, § 22, eff. Oct. 1, 1995, substituted references to the central abuse hotline for references to the

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central abuse registry and tracking system throughout; in subsec. (1), inserted ", abandoned," following "abused" in the concluding paragraph; and in subsec. (2), rewrote par. (b), which formerly read:

"Each report made by a person in an occupation designated in subsection (1) shall be confirmed in writing to the local office of the department designated by the central abuse registry and tracking system within 48 hours of the initial report."

and added par. (e), relating to identification of callers.

Laws 1995, c. 95-228, § 44, eff. Oct. 1, 1995, substituted references to the central abuse hotline for references to the central abuse registry and tracking system throughout; in subsec. (1), inserted a reference to abandoned children in the concluding paragraph; in subsec. (2), deleted former par. (b), which had read:

"Each report made by a person in an occupation designated in subsection (1) shall be confirmed in writing to the local office of the department designated by the central abuse registry and tracking system within 48 hours of the initial report.",

and redesignated former pars. (c) and (d) as pars. (b) and (c); in subsec. (4), inserted a reference to abandonment in the first sentence of the introduction, deleted a reference to classifying suspected abuse or neglect in subpar. 2., and substituted a reference to reports for a reference to confirmed reports in subpar. 6. of par. (a), redesignated former introduction of subpar. 1. along with sub-subpars. a. and b. of par. (b) as the introduction and subpars. 1. and 2. of par. (c), deleted former subpars. 1.c. through 1.k., subpar. 2., and the concluding provision of par. (c), which formerly read:

"c. The possible consequences of the investigation.

"d. How the information provided by the subject may be used.

"e. The description of the risk assessment process and placement of a child.

"f. That the child, the child's parent or guardian, the alleged perpetrator named in a proposed confirmed report, and legal counsel for the aforementioned persons have a right to a copy of any proposed confirmed or confirmed report at the conclusion of the investigation.

"g. That persons who are entitled to receive a copy of the report also have the right to submit a written comment or rebuttal which may be made a part of the report.

"h. That subjects may have additional appeal rights which will be explained in writing when appropriate and necessary at the conclusion of the investigation.

"i. That the court will appoint a guardian ad litem to represent the interest of the child should dependency proceedings result from the investigation.

"j. That if the department removes the child from the home, an order will be entered for the financial support of the child while the child is in the care of the department, and that the parent or legal custodian will be obligated to pay the ordered child support and all other fees established by the department.

"k. The telephone number and name of a department employee available to answer questions.

"2. Upon completion of its investigation, the department shall classify reports as 'proposed confirmed' or 'unfounded,' unless the report is closed without classification, and must give notice of its classification as follows:

"a. In the case of an unfounded report, notice of the classification shall be given to the parent or guardian of the child, the child if appropriate, and the alleged perpetrator.

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"b. In the case of a proposed confirmed classification, notice must be given to the parent or guardian of the child, the child if appropriate, the alleged perpetrator, and legal counsel for the aforementioned persons.

"The department shall adopt rules prescribing the content of the notice to be provided and requiring uniformity of content and appearance of each notice of classification issued by the department.",

inserted pars. (d) and (e), relating to records, and to employment screening, respectively, and deleted former pars. (d) through (h), which had read:

"(d)1. The contents of the notice of classification of reports shall be as follows:

"a. In the case of unfounded reports, notice shall be provided to the persons specified in sub-subparagraph (c)2.a., may be sent by regular mail, and shall advise the recipient that the report will be expunged in 30 days.

"b. In the case of a proposed confirmed report, notice shall be provided to the persons specified in sub-subparagraph (c)2.b. and, in the case of the alleged perpetrator, shall be sent by certified mail with return receipt requested. The notice shall state the facts that are alleged to support the proposed confirmed classification, the nature of the alleged abuse, neglect, or exploitation, and that an alleged perpetrator of a confirmed report may be disqualified from working with children, the developmentally disabled, disabled adults, or aged persons. The notice shall further advise the recipient of his right to request a copy of the report, to submit a written statement of explanation or rebuttal with respect to the report, and to request amendment or expunction of the report. The notice shall clearly advise the person that failure to make such a request within 60 days after receipt of the notice, as evidenced by the date on the return receipt, means that the person agrees not to contest the classification of the report, and shall prevent further proceedings in the matter. If the alleged perpetrator of a proposed confirmed report asks for amendment or expunction, the secretary may amend or expunge the record. If the secretary refuses or does not act within 30 days after receiving such a request, the alleged perpetrator of a proposed confirmed report shall have the right to an administrative hearing pursuant to chapter 120 to contest whether the record of the report should be amended or expunged. A request for an administrative hearing must be submitted in writing to the department within 30 days after notification of the secretary's decision to deny the requested amendment or expunction, or, if the secretary fails to act on the request, within 30 days after the expiration of the 30-day time period within which the secretary may act under the provisions of this sub-subparagraph. The alleged perpetrator may, within 1 year after the classification of the report as confirmed, request the department to set aside a confirmed report where it can be shown that the failure to ask for amendment or expunction was due to excusable neglect or fraud. The standard for excusable neglect or fraud shall be as provided in the Florida Rules of Civil Procedure.

"2. The schedule for requesting reports, submitting written comments, and requesting amendment or expunction of reports shall be as follows:

"a. A person entitled to request a copy of an investigative report shall do so within 15 days after receipt of the notice as provided in this paragraph. In the case of an unfounded report, the 15 days shall be counted from the date of mailing of the notice. In the case of a proposed confirmed report, the 15 days shall be counted from the date of delivery of the original notice as evidenced by the return receipt.

"b. A person entitled to submit a written statement of explanation or rebuttal and to request amendment or expunction of the report pursuant to sub-subparagraph 1.b. shall submit the statement or make such a request within 60 days after receipt of the original notice as evidenced by the return receipt. The failure to make a timely request for amendment or expunction of the report means the person agrees not to contest the classification of the report.

"3. At a hearing conducted pursuant to the provisions of chapter 120, the department shall prove by a preponderance of the evidence that the alleged perpetrator committed the abuse, neglect, or exploitation. The department's investigative report shall be considered competent evidence at the hearing, and the technical rules of evidence shall not exclude such report. If the department's classification as proposed confirmed is upheld, the report shall become a confirmed report.

"4. The confidentiality of the abuse or neglect report shall, to the extent possible, be maintained during the

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administrative hearing process. The administrative hearing shall be closed, the administrative files shall be confidential and exempt from the provisions of s. 119.07(1), and any identifying information in the recommended or final order shall be deleted prior to publishing pursuant to chapter 120. This exemption is subject to the Open Government Sunset Review Act in accordance with s. 119.14.

"(e) All identifying information in the central abuse registry and tracking system or other computer systems or records that is related to unfounded reports shall be expunged 30 days after the case is classified as 'unfounded.' Computer records of a confirmed report shall be retained for 50 years from the date the report is classified. All information, other than identifying information, related to unfounded reports at the time of expunction shall be disposed of in a manner deemed appropriate by the department and pursuant to ss. 119.041 and 257.36(7). Unfounded reports shall only be indexed by the name of the child to detect patterns of abuse or neglect. Persons named in unfounded reports shall not be identified as perpetrators. All information in the central abuse registry and tracking system or other computer systems or records shall be subject to the confidentiality provisions in s. 415.51. This exemption is subject to the Open Government Sunset Review Act in accordance with s. 119.14.

"(f) Reports closed without classification shall be indexed only by the name of the child, the child's siblings, or other minor household members, and by the institution or facility, if appropriate, to detect patterns of abuse or neglect. Each report shall be maintained by the department for a period of 7 years after the date the report is closed and is subject to the confidentiality provisions in s. 415.51.

"(g) Nothing in this section is intended to require the expunction or destruction of case records or information required by the Federal Government to be retained for future audit.

"(h) A person who is the alleged perpetrator in a report that the department has classified as unfounded may request the department to retain the report for 1 year for the purpose of detecting a person who knowingly makes a false report.";

and in subsec. (5), substituted a reference to persons for a reference to alleged perpetrators, perpetrators, or children.

Laws 1995, c. 95-228, § 50, provides:

"The Department of Health and Rehabilitative Services shall no longer classify reports of child abuse. The classifications for any child abuse cases presently identified and classified are no longer valid and are not to be used for employment screening."

Laws 1995, c. 95-228, § 64, provides:

"Except as otherwise provided herein, this act shall take effect October 1, 1995, and shall apply to offenses committed on or after that date."

Laws 1995, c. 95-266, § 9, eff. June 13, 1995, in subsec. (2), rewrote former par. (d), which had read:

"Reports involving known or suspected child-on-child sexual **abuse** shall be made and received by the department for **reporting** purposes. The department shall collect as much information as possible on the report before referring the report to an appropriate agency. If the department determines that the child-on-child sexual abuse report alleges caretaker neglect, it shall investigate the report."

Laws 1995, c. 95-267, § 51, eff. Oct. 1, 1995, in subsec. (2), also rewrote former par. (d).

Laws 1995, c. 95-418, § 133, eff. July 1, 1995, in subsec. (4)(d)1.b., in the second sentence, substituted "elderly" for "aged".

Laws 1996, c. 96-215, § 1, eff. Oct. 1, 1996, in subsec. (2)(a), in the first sentence, inserted the exception; and added the second and third sentences.

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Laws 1996, c. 96-268, § 14, eff. May 29, 1996, amended this section to resolve inconsistencies between the 1995 amendments.

Laws 1996, c. 96-402, § 14, eff. Oct. 1, 1996, in subsec. (4), par. (c), added subpar. 3.

Laws 1996, c. 96-406 was a reviser's bill which deleted references to § 119.14 throughout Florida Statutes to conform to the repeal of § 119.14, the Open Government Sunset Review Act, by Laws 1995, c. 95-217, § 1.

Laws 1997, c. 97-103, eff. July 1, 1997, removed gender-specific references applicable to human beings without substantive changes in legal effect.

Laws 1997, c. 97-264, eff. July 1, 1997, substituted references to osteopathic physicians for references to osteopaths.

Laws 1998, c. 98-166, § 257, substituted "chiropractic physician" for "chiropractor".

Laws 1998, c. 98-403, § 31, renumbered and rewrote the section, which formerly read:

"(1) Any person, including, but not limited to, any:

"(a) Physician, osteopathic physician, medical examiner, chiropractor, nurse, or hospital personnel engaged in the admission, examination, care, or treatment of persons;

"(b) Health or mental health professional other than one listed in paragraph (a);

"(c) Practitioner who relies solely on spiritual means for healing;

"(d) School teacher or other school official or personnel;

"(e) Social worker, day care center worker, or other professional child care, foster care, residential, or institutional worker; or

"(f) Law enforcement officer,

"who knows, or has reasonable cause to suspect, that a child is an abused, abandoned, or neglected child shall report such knowledge or suspicion to the department in the manner prescribed in subsection (2).

"(2)(a) Each report of known or suspected child abuse or neglect pursuant to this section, except those solely under s. 827.04(4), shall be made immediately to the department's central abuse hotline on the single statewide toll-free telephone number, and, if the report is of an instance of known or suspected child abuse by a noncaretaker, the call shall be immediately electronically transferred to the appropriate county sheriff's office by the central abuse hotline. If the report is of an instance of known or suspected child abuse involving impregnation of a child under 16 years of age by a person 21 years of age or older solely under s. 827.04(4), the report shall be made immediately to the appropriate county sheriff's office or other appropriate law enforcement agency. If the report is of an instance of known or suspected **child abuse** solely under s. 827.04(4), the **reporting** provisions of this subsection do not apply to health care professionals or other persons who provide medical or counseling services to pregnant children when such **reporting** would interfere with the provision of medical services.

"(b) Reporters in occupation categories designated in subsection (1) are required to provide their names to the hotline staff. The names of reporters shall be entered into the record of the report, but shall be held confidential as provided in s. 415.51.

"(c) Reports involving known or suspected institutional child abuse or neglect shall be made and received in the same manner as all other reports made pursuant to this section.

"(d) Reports involving a known or suspected juvenile sexual offender shall be made and received by the department.

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"1. The department shall determine the age of the alleged juvenile sexual offender if known.

"2. When the alleged juvenile sexual offender is 12 years of age or younger, the department shall proceed with an investigation of the report pursuant to part III, immediately electronically transfer the call to the appropriate law enforcement agency office by the central abuse hotline, and send a written report of the allegation to the appropriate county sheriff's office within 48 hours after the initial report is made to the central abuse hotline.

"3. When the alleged juvenile sexual offender is 13 years of age or older, the department shall immediately electronically transfer the call to the appropriate county sheriff's office by the central abuse hotline and send a written report to the appropriate county sheriff's office within 48 hours after the initial report to the central abuse hotline.

"(e) Hotline counselors shall receive periodic training in encouraging reporters to provide their names when reporting abuse. Callers shall be advised of the confidentiality provisions of s. 415.51. The department shall secure and install electronic equipment that automatically provides to the hotline the number from which the call is placed. This number shall be entered into the report of abuse and become a part of the record of the report, but shall enjoy the same confidentiality as provided to the identity of the caller pursuant to s. 415.51.

"(3) Any person required to report or investigate cases of suspected child abuse or neglect who has reasonable cause to suspect that a child died as a result of child abuse or neglect shall report his or her suspicion to the appropriate medical examiner. The medical examiner shall accept the report for investigation pursuant to s. 406.11 and shall report his or her findings, in writing, to the local law enforcement agency, the appropriate state attorney, and the department. Autopsy reports maintained by the medical examiner are not subject to the confidentiality requirements provided for in s. 415.51.

"(4)(a) The department shall establish and maintain a central abuse hotline to receive all reports made pursuant to this section in writing or through a single statewide toll-free telephone number, which any person may use to report known or suspected child abuse, abandonment, or neglect at any hour of the day or night, any day of the week. The central abuse hotline shall be operated in such a manner as to enable the department to:

"1. Immediately identify and locate prior reports or cases of child abuse or neglect through utilization of the department's automated tracking system.

"2. Monitor and evaluate the effectiveness of the department's program for reporting and investigating suspected abuse or neglect of children through the development and analysis of statistical and other information.

"3. Track critical steps in the investigative process to ensure compliance with all requirements for any report of abuse or neglect.

"4. Maintain and produce aggregate statistical reports monitoring patterns of both child abuse and child neglect. The department shall collect and analyze child-on-child sexual abuse reports and include the information in aggregate statistical reports.

"5. Serve as a resource for the evaluation, management, and planning of preventive and remedial services for children who have been subject to abuse or neglect.

"6. Initiate and enter into agreements with other states for the purpose of gathering and sharing information contained in reports on child maltreatment to further enhance programs for the protection of children.

"(b) Upon receiving an oral or written report of known or suspected child abuse or neglect, the central abuse hotline shall determine if the report requires an immediate onsite protective investigation. For reports requiring an immediate onsite protective investigation, the central abuse hotline shall immediately notify the department's designated children and families district staff responsible for protective investigations to ensure that an onsite investigation is promptly initiated. For reports not requiring an immediate onsite protective investigation, the central

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abuse hotline shall notify the department's designated children and families district staff responsible for protective investigations in sufficient time to allow for an investigation, or if the district determines appropriate, a family services response system approach to be commenced within 24 hours. When a district decides to respond to a report of child abuse or neglect with a family services response system approach, the provisions of part III apply. If, in the course of assessing risk and services or at any other appropriate time, responsible district staff determines that the risk to the child requires a child protective investigation, then the department shall suspend its family services response system activities and shall proceed with an investigation as delineated in this part. At the time of notification of district staff with respect to the report, the central abuse hotline shall also provide information on any previous report concerning a subject of the present report or any pertinent information relative to the present report or any noted earlier reports.

"(c) Upon commencing an investigation under this part, the child protective investigator shall inform any subject of the investigation of the following:

"1. The names of the investigators and identifying credentials from the department.

"2. The purpose of the investigation.

"3. The right to obtain his or her own attorney and ways that the information provided by the subject may be used.

"(d) The department shall make and keep records of all cases brought before it pursuant to this part and shall preserve the records pertaining to a child and family until 7 years after the last entry was made or until the child is 18 years of age. The department shall then destroy the records, except where the child has been placed under the protective supervision of the department, the court has made a finding of dependency, or a criminal conviction has resulted from the facts associated with the report and there is a likelihood that future services of the department may be required.

"(e) Information in the central abuse hotline may not be used for employment screening. Access to the information shall only be granted as set forth in s. 415.51.

"(5) This section does not require a professional who is hired by or enters into a contract with the department for the purpose of treating or counseling any person, as a result of a report of child abuse or neglect, to again report to the central abuse hotline the abuse or neglect that was the subject of the referral for treatment."

Laws 1999, c. 99-168, § 4, eff. July 1, 1999, in subsec. (1), added par. (g); in subsec. (2), added par. (b), relettered former pars. (b) to (e) as pars. (c) to (f), and added par. (g); and added subsections (8) and (9).

Laws 1999, c. 99-168, § 21, provides that:

"Section 21. The Department of Children and Family Services shall contract with an independent entity for the purpose of evaluating the central abuse hotline within the department to determine its effectiveness and efficiency in performing its statutory responsibilities pursuant to chapter 39, Florida Statutes. This evaluation must include, but need not be limited to, the criteria and the application of criteria by which calls are accepted or denied. This evaluation must also address the need to monitor the central abuse hotline on an ongoing basis and, if recommended, must propose the monitoring process."

Laws 1999, c. 99-193, § 10, eff. July 1, 1999, in subsec. (1), substituted "by a parent, legal custodian, caregiver, or other person responsible for the child's welfare" for "child".

Laws 2000, c. 2000-139, § 41, in subsec. (9), substituted "Program Director for Family Safety" for "assistant secretary".

Laws 2000, c. 2000-188, § 3, inserted a new subsec. (2)(f); and renumbered subsections (2)(f) and (2)(g) as subsections (2)(g) and (2)(h).

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Laws 2000, c. 2000-217, § 1, rewrote subsec. (2)(g); in subsec. (7), inserted the paragraph (a) designation and added paragraph (b); in subsec. (8), substituted "contracting with community-based care providers for" for "privatization of" and "community-based care" for "privatization"; and, in subsec. (9), substituted "calls" for "reports" and inserted ", where jurisdiction applies" following "child". Prior to amendment, subsec. (2)(g) read:

"(g) The department shall voice-record all incoming or outgoing calls that are received or placed by the central abuse hotline which relate to suspected or known child abuse, neglect, or abandonment. The recording shall become a part of the record of the report, but is subject to the same confidentiality as is provided to the identity of the caller under s. 39.202."

Laws 2001, c. 53, § 1, in subsec. (2)(f), in the first sentence of par. (f)1., following "abandonment" deleted "of the infant"; and inserted references to emergency medical services station throughout.

Laws 2003, c. 2003-127, § 1, rewrote subsecs. (1) and (2), and deleted subsecs. (7) and (8), which formerly read:

"(1) Any person, including, but not limited to, any:

"(a) Physician, osteopathic physician, medical examiner, chiropractic physician, nurse, or hospital personnel engaged in the admission, examination, care, or treatment of persons;

"(b) Health or mental health professional other than one listed in paragraph (a);

"(c) Practitioner who relies solely on spiritual means for healing;

"(d) School teacher or other school official or personnel;

"(e) Social worker, day care center worker, or other professional child care, foster care, residential, or institutional worker;

"(f) Law enforcement officer; or

"(g) Judge,

"who knows, or has reasonable cause to suspect, that a child is abused, abandoned, or neglected by a parent, legal custodian, caregiver, or other person responsible for the child's welfare shall report such knowledge or suspicion to the department in the manner prescribed in subsection (2).

"(2)(a) Each report of known or suspected child abuse, abandonment, or neglect pursuant to this section, except those solely under s. 827.04(3), shall be made immediately to the department's central abuse hotline on the single statewide toll-free telephone number, and, if the report is of an instance of known or suspected child abuse by a noncaretaker, the call shall be immediately electronically transferred to the appropriate county sheriff's office by the central abuse hotline. If the report is of an instance of known or suspected child abuse involving impregnation of a child under 16 years of age by a person 21 years of age or older solely under s. 827.04(3), the report shall be made immediately to the appropriate county sheriff's office or other appropriate law enforcement agency. If the report is of an instance of known or suspected **child abuse** solely under s. 827.04(3), the **reporting** provisions of this subsection do not apply to health care professionals or other persons who provide medical or counseling services to pregnant children when such **reporting** would interfere with the provision of medical services.

"(b) The department must consider valid and accept for investigation any report received by the central abuse hotline from a judge, teacher or other professional school official, or physician, as specified in paragraph (1)(a), paragraph (1)(d), or paragraph (1)(g), who is acting in his or her professional capacity, alleging harm as defined in s. 39.01.

"(c) Reporters in occupation categories designated in subsection (1) are required to provide their names to the hotline staff. The names of reporters shall be entered into the record of the report, but shall be held confidential as provided in s. 39.202.

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"(d) Reports involving known or suspected institutional child abuse or neglect shall be made and received in the same manner as all other reports made pursuant to this section.

"(e) Reports involving a known or suspected juvenile sexual offender shall be made and received by the department.

"1. The department shall determine the age of the alleged juvenile sexual offender if known.

"2. When the alleged juvenile sexual offender is 12 years of age or younger, the department shall proceed with an investigation of the report pursuant to this part, immediately electronically transfer the call to the appropriate law enforcement agency office by the central abuse hotline, and send a written report of the allegation to the appropriate county sheriff's office within 48 hours after the initial report is made to the central abuse hotline.

"3. When the alleged juvenile sexual offender is 13 years of age or older, the department shall immediately electronically transfer the call to the appropriate county sheriff's office by the central abuse hotline, and send a written report to the appropriate county sheriff's office within 48 hours after the initial report to the central abuse hotline.

"(f) Reports involving abandoned newborn infants as described in s. 383.50 shall be made and received by the department.

"1. If the report is of an abandoned newborn infant as described in s. 383.50 and there is no indication of abuse, neglect, or abandonment other than that necessarily entailed in the infant having been left at a hospital, emergency medical services station, or fire station, the department shall provide to the caller the name of a licensed child-placing agency on a rotating basis from a list of licensed child-placing agencies eligible and required to accept physical custody of and to place newborn infants left at a hospital, emergency medical services station, or fire station. The report shall not be considered a report of abuse, neglect, or abandonment solely because the infant has been left at a hospital, emergency medical services station, or fire station pursuant to s. 383.50.

"2. If the caller reports indications of abuse or neglect beyond that necessarily entailed in the infant having been left at a hospital, emergency medical services station, or fire station, the report shall be considered as a report of abuse, neglect, or abandonment and shall be subject to the requirements of s. 39.395 and all other relevant provisions of this chapter, notwithstanding any provisions of chapter 383.

"(g) Hotline counselors shall receive periodic training in encouraging reporters to provide their names when reporting abuse, abandonment, or neglect. Callers shall be advised of the confidentiality provisions of s. 39.202. The department shall secure and install electronic equipment that automatically provides to the hotline the number from which the call is placed. This number shall be entered into the report of abuse, abandonment, or neglect and become a part of the record of the report, but shall enjoy the same confidentiality as provided to the identity of the caller pursuant to s. 39.202.

"(h) The department shall voice-record all incoming or outgoing calls that are received or placed by the central abuse hotline which relate to suspected or known child abuse, neglect, or abandonment. The recording shall become a part of the record of the report but, notwithstanding s. 39.202, shall be released in full only to law enforcement agencies and state attorneys for the purpose of investigating and prosecuting criminal charges pursuant to s. 39.205, or to employees of the department for the purpose of investigating and seeking administrative penalties pursuant to s. 39.206. Nothing in this paragraph shall prohibit the use of the recordings by hotline staff for quality assurance and training."

"(7)(a) This section does not require a professional who is hired by or enters into a contract with the department for the purpose of treating or counseling any person, as a result of a report of child abuse, abandonment, or neglect, to again report to the central abuse hotline the abuse, abandonment, or neglect that was the subject of the referral for treatment.

"(b) This section does not require an officer or employee of the judicial branch to again provide notice of reasonable

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cause to suspect child abuse, abandonment, or neglect when that child is currently being investigated by the department, there is an existing dependency case, or the matter has previously been reported to the department, provided there is reasonable cause to believe the information is already known to the department. This paragraph applies only when the information has been provided to the officer or employee in the course of official duties.

"(8) Nothing in this chapter or in the contracting with community-based care providers for foster care and related services as specified in s. 409.1671 shall be construed to remove or reduce the duty and responsibility of any person, including any employee of the community-based care provider, to report a suspected or actual case of child abuse, abandonment, or neglect or the sexual abuse of a child to the department's central abuse hotline."

CROSS REFERENCES

Child labor, see [§ 450.012](#) et seq.

Penalties for child abuse, neglect or exploitation, see [§ 827.03](#) et seq.

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[FL Jur. 2d Counties & Municipal Corporations § 226](#), Regulating Matters Regulated by State Statute.

[FL Jur. 2d Criminal Law § 1415](#), Notice of Deposition.

[FL Jur. 2d Criminal Law § 4099](#), Interception of Emergency Calls.

[FL Jur. 2d Family Law § 105](#), Confidentiality of Reports and Records.

[FL Jur. 2d Family Law § 106](#), Immunity from Liability.

[FL Jur. 2d Family Law § 107](#), Abrogation of Privileged Communications in Child Abuse or Neglect Cases.

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[FL Jur. 2d Family Law § 216](#), Generally; Reports of Child Abuse, Abandonment, or Neglect.

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[FL Jur. 2d Government Tort Liability § 46](#), Generally; Duty to Supervise Students.

[FL Jur. 2d Records & Recording Acts § 104](#), Information as to Sexual Abuse Victims.

[FL Jur. 2d Records & Recording Acts § 106](#), Disclosure of Records of Investigations of Department of Health and Rehabilitative Services.

[FL Jur. 2d Records & Recording Acts § 104](#), Information as to Sexual Abuse Victims.

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[1](#). Construction and application

Private person's compliance with state statute mandating **reporting** of suspected **child abuse** is insufficient to meet "state compulsion test" for establishing state action by what is otherwise a private person or entity for purposes of liability under § § 1983. [Arline v. City of Jacksonville, M.D.Fla.2005, 359 F.Supp.2d 1300](#). Civil Rights  1326(4)

Statute requiring the **reporting** of known or suspected **child abuse** to Department of Children and Family Services does not create an implied cause of action for damages for a party's failure to comply with terms of statute. [Welker v. Southern Baptist Hosp. of Florida, Inc., App. 1 Dist., 864 So.2d 1178 \(2004\)](#), rehearing denied, review granted [884 So.2d 24](#). Infants  13.5(1)

State employee interviewing defendant regarding civil child protection matter was not required to advise defendant of his right to attorney, or to warn defendant that his statements could be used against him in proceedings brought by Department of Children and Family Services to protect abused children, where there were no such proceedings in place. [Garner v. State, App. 5 Dist., 729 So.2d 990 \(1999\)](#). Criminal Law  412.2(3)

Evidence failed to establish that parent violated child abuse statute; court could not properly or adequately define conduct proscribed by statute due to vagueness of the statute. [A.S. v. Department of Health and Rehabilitative Services, App. 2 Dist., 616 So.2d 1202 \(1993\)](#), affirmed in part, reversed in part [648 So.2d 128](#). Infants  132; Infants  179

This section which is directed to maintenance of accurate information in Department of Health and Rehabilitative Services' abuse registry is not penal statute, even though portion of this section provides that perpetrator of confirmed report of child abuse may be disqualified from working with children; thus, this section is not subject to ex post facto doctrine. [W.M. v. Department of Health and Rehabilitative Services, App. 1 Dist., 553 So.2d 274 \(1989\)](#), review denied [564 So.2d 490](#). Constitutional Law  197; Infants  132

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Section 39.201(1)(a), Florida Statutes, imposes a responsibility on any person who knows of or has reasonable cause to suspect child abuse, abandonment or neglect to report such abuse, abandonment or neglect. Op.Atty.Gen., 2004-57, Nov. 23, 2004.

2. Reporting of incidents

Provision in final marital dissolution judgment requiring former wife to report any future suspicions of **child abuse** to Department of Children and Families was unnecessary in light of mandatory **reporting** requirements of **child abuse reporting** statute. [Sierra v. Sierra, App. 3 Dist., 776 So.2d 966 \(2000\)](#), rehearing denied. Divorce 🔑 152

Mere presence of bruises resulting from corporal punishment was not competent, substantial evidence of excessive corporal punishment or temporary disfigurement within meaning of statute requiring reports of abused or neglected children be made to Department of Health and Rehabilitative Services, and thus father's name should have been expunged from central child abuse registry, where son recanted earlier report that corporal punishment had been abuse, and there was evidence that son called HRS in attempt to be allowed to live with mother in another state. [R.S.M. v. Department of Health and Rehabilitative Services, App. 2 Dist., 640 So.2d 1126 \(1994\)](#). Infants 🔑 133

Even if incident of child abuse is determined to have already been reported to abuse registry, statute requires incident to be reported to registry again. [Barber v. State, App. 2 Dist., 592 So.2d 330 \(1992\)](#). Infants 🔑 13

3. Persons required to make reports

Statute requiring recording of **child abuse** is not limited to the first person **reporting** it and does not exempt treating professionals who are brought in to counsel perpetrator or victim after the **child abuse** has been reported, and person given obligation to report may not assume that someone else has or will report and cannot rely on statement by perpetrator, victim or parent that matter has been reported. [Jett v. State, App. 5 Dist., 605 So.2d 926 \(1992\)](#), review granted [620 So.2d 762](#), approved [626 So.2d 691](#). Infants 🔑 13

Psychiatrist who did not treat patient's daughter did not fall under mandatory provision of this section requiring that "any person * * * serving children" report child abuse to department of health and rehabilitative services. [State v. Groff, App. 2 Dist., 409 So.2d 44 \(1981\)](#). Infants 🔑 13

While most city employees **reporting child abuse**, abandonment or neglect would not appear to be required to give their names when **reporting**, there may be employees who fall within the enumerated categories set forth in section 39.201(1)(b), Florida Statutes, who would be required to identify themselves. Op.Atty.Gen., 2004-57, Nov. 23, 2004.

4. Notification of law enforcement officials

Police officer was not entitled to qualified immunity in § 1983 action alleging that officer lacked probable cause to arrest manager of rehabilitative center for troubled boys for having failed to report child abuse; officer knew that incident had been reported to HRS central abuse hotline and that manager had additionally submitted written report, and there was no requirement that abuse also be reported to local law enforcement or to local HRS office. [Madiwale v. Savaiko, C.A.11 \(Fla.\)1997, 117 F.3d 1321](#). Civil Rights 🔑 1376(6)

Pending legislative or judicial clarification, the department of health and rehabilitative services is not under a statutory duty to directly notify appropriate police agencies of each reported instance of child abuse received by the department. The department is under a duty to conduct an immediate investigation and if the department has reason to believe that a child has been criminally abused to immediately and orally notify the state attorney. Reports of abuse concerning employees or agents of the department acting in an official capacity are to be investigated by the state attorney rather than the department. Reports of suspected criminal **child abuse** forwarded to the state attorney and the circuit court should not contain the name or identity of the person **reporting** the abuse without the written consent of such individual. The department may in its discretion directly contact the police when an urgent situation


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exists which requires immediate police intervention. Op.Atty.Gen., 078-15, Jan. 31, 1978.


The division of family services may call law enforcement officials directly without first contacting the state attorney when an urgent situation exists requiring immediate police action or protection of the safety and welfare of children. Op.Atty.Gen., 076-21, Jan. 28, 1976.


The prohibition regarding release of confidential information was neither intended to nor does apply to release of information to the state attorney and local law enforcement personnel assisting in the investigation of a criminally abused child. The findings of an investigation made pursuant to subsec. (6) of this section or the entire report of the investigation--except for the name of the person **reporting the child abuse**--rendered to and received by the department may be transmitted to the state attorney. However, the names of persons reporting abuse should not be furnished to the state attorney, the police or the courts without the written authorization of the person reporting the abuse. Op.Atty.Gen., 076-21, Jan. 28, 1976.


5. Expunging reports


Department of Health and Rehabilitation Services was required to expunge child abuse report from Florida Protective Services System after hearing officer found evidence insufficient to establish alleged child abuse; Department could not void adverse adjudication in evidentiary hearing by determining to close report "without classification." [G.A. v. Department of Health and Rehabilitative Services, App. 1 Dist., 695 So.2d 712 \(1996\)](#), rehearing denied. Infants  133

Statutory definitions of "abuse or neglected child," "child abuse or neglect," and "harm" to a child's health or welfare could not be combined to produce one standard requiring proof of mental injury to preclude expungement of a proposed confirmed report of perpetration of mental abuse or other mental injury-abuse or threatened harm on a child as conduct of perpetrator could constitute mental abuse or neglect, although child had not yet suffered mental injury. [T.S. v. Department of Health and Rehabilitative Services, App. 1 Dist., 654 So.2d 1028 \(1995\)](#). Infants  133; Infants  156

In denying request to expunge confirmed report that a father perpetrated mental abuse, other mental injury-abuse or other threatened harm on his son, Department of Health and Rehabilitative Services (HRS) erred when it merely summarized testimony of witnesses without accepting or rejecting the testimony. [T.S. v. Department of Health and Rehabilitative Services, App. 1 Dist., 654 So.2d 1028 \(1995\)](#). Infants  133


In denying applicant's request for administrative expungement of her name from central child abuse registry, Department of Health and Rehabilitative Services (HRS) erred in relying on dependency order which was subject of pending appeal and which was thus nonfinal, where HRS had found that dependency order entered by circuit court in parallel proceeding compelled finding of neglect. [S.G. v. Department of Health and Rehabilitative Services, App. 1 Dist., 647 So.2d 243 \(1994\)](#). Infants  133


Department of Health and Rehabilitative Services (HRS) order, denying applicant's request for administrative expungement of her name from central child abuse registry, would be reversed and remanded with directions for HRS to enter order consonant with conclusions of law reached by hearing officer, since administrative rule repealed prior to entry of HRS order was sole basis for agency's disagreement with hearing officer, and, because HRS declined to file brief in applicant's appeal, there was no argument made that rule could be applied on remand. [S.G. v. Department of Health and Rehabilitative Services, App. 1 Dist., 647 So.2d 243 \(1994\)](#). Infants  133



In order to sustain final order of Department of Health and Rehabilitative Services (HRS) which denied parent's request to expunge his name from confirmed report of child neglect, HRS was required to show by preponderance of competent, substantial evidence, harm or threatened harm to physical or mental health or welfare of parent's six-year-old child attributable to parent's acts or omissions. [A.S. v. Department of Health and Rehabilitative Services, App. 2 Dist., 616 So.2d 1202 \(1993\)](#), affirmed in part, reversed in part [648 So.2d 128](#). Infants  133



Department of Health and Reproductive Services (HRS) failed to establish that daycare worker actually had abused



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child and, thus, daycare worker's name had to be expunged from registry of confirmed perpetrators of child abuse, despite daycare worker's no contest plea in child abuse prosecution, and regardless of statute that disqualified worker from licensure or employment as caretaker; abrasions around child's rectum and scrotum could have occurred before incident in question and could not have occurred from worker's admitted spanking of child. [Kelly v. Department of Health and Rehabilitative Services, App. 2 Dist., 610 So.2d 1375 \(1992\)](#). Infants  133

Individual's confirmed act in 1983 or early 1984 of masturbating in presence of sleeping child did not violate any then-existing child abuse statutes, and perpetrator thus was entitled to expungement of confirmed report of sexual abuse from his case record. [J.S.M. v. Department of Health and Rehabilitative Services, App. 4 Dist., 571 So.2d 581 \(1990\)](#). Infants  133


Father listed as "confirmed" child abuser on central child abuse registry was deprived of due process when officer conducting evidentiary hearing on whether father's name should be expunged from registry relied upon Department of Health and Rehabilitative Services' internal policy, that when corporal punishment was administered and caused bruises lasting more than 24 hours, investigator was to consider that temporary disfigurement for purposes of statute defining harm to child and consequently excessive corporal punishment; internal policy was effectively raised to level of irrebuttable evidentiary presumption. [J.C. v. Department of Health and Rehabilitative Services, App. 2 Dist., 561 So.2d 457 \(1990\)](#). Constitutional Law  274(5); Infants  133


Assistant principal and teacher whose names were added to Florida abuse register under mandatory requirement of 24-hour rule, which creates irrebuttable presumption of excess corporal punishment in all cases where bruises remain visible at least 24 hours after administration of corporal punishment, were entitled to have names expunged from register, where rule afforded accused person no other opportunity to rebut presumption, and paddling involved was administered in accordance with school board guidelines, with paddle approved by school board, and with prior permission of child's mother. [B.R. v. Department of Health and Rehabilitative Services, App. 2 Dist., 558 So.2d 1027 \(1989\)](#), review denied [567 So.2d 434](#). Infants  133; Schools  147

Deposition testimony of child against whom school employee had allegedly used excessive corporal punishment was admissible in hearing on school employee's application for expunction of report that had been filed by Department of Health and Rehabilitative Services which indicated that employee had abused that child; furthermore, hearing officer did not err in relying on contents of report to support his findings in denying employee's application. [W.M. v. Department of Health and Rehabilitative Services, App. 1 Dist., 553 So.2d 274 \(1989\)](#), review denied [564 So.2d 490](#). Administrative Law And Procedure  466; Infants  133

Department of Health and Rehabilitative Services, which denied request to expunge child abuse report from registry, was required to explain departure from previous policy that accidental happenings were not child abuse; hearing officer had determined that injury of student by teacher was accidental. [B.B. v. Department of Health and Rehabilitative Services, App. 3 Dist., 542 So.2d 1362 \(1989\)](#). Administrative Law And Procedure  513; Infants  133


6. Civil liability

Statute requiring the **reporting** of known or suspected **child abuse** to Department of Children and Family Services does not create an implied cause of action for damages for a party's failure to comply with terms of statute. [Welker v. Southern Baptist Hosp. of Florida, Inc., App. 1 Dist., 864 So.2d 1178 \(2004\)](#), rehearing denied, review granted [884 So.2d 24](#). Infants  13.5(1)


Psychiatrist's status as person required to report known or suspected abuse or neglect of child did not give rise to any special relation between psychiatrist and child of voluntary outpatient that would occasion duty to child, so as to render psychiatrist liable for patient's physical and mental abuse of his children when psychiatrist failed to report his alleged knowledge or suspicion of child abuse. [Fischer v. Metcalf, App. 3 Dist., 543 So.2d 785 \(1989\)](#). Infants  17

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7. Guilty pleas

Counsel's mistaken advice that defendant's photo would not be placed on the internet established good cause for permitting defendant to withdraw, prior to sentencing, guilty pleas to lewd and lascivious conduct in the presence of a child under 16 and failure to report. [Graham v. State, App. 2 Dist., 779 So.2d 604 \(2001\)](#). Criminal Law  274(7)

8. Standard of proof

Department of Health and Rehabilitative Services improperly construed hearing officer's indication that Department's proof failed to satisfy "clear and convincing standard" for proving child abuse by only narrow margin as establishing that proof was sufficient under proper standard of "preponderance of the evidence"; such certainty of meaning should not have been ascribed to officer's comment, and Department should have remanded case for hearing officer to apply proper standard of proof on request for expunction of child abuse report. [H.L.T. v. Department of Health and Rehabilitative Services, App. 1 Dist., 648 So.2d 1237 \(1995\)](#). Infants  133

9. Review

Trial court's referral of child custody case to the dependency court for an assessment on the question of whether the mother's efforts to alienate the child from his father constituted child abuse was not reviewable. [E.Z.P. v. H.P., Jr., App. 3 Dist., 756 So.2d 188 \(2000\)](#). Child Custody  902

Public Employees Relations Commission's jurisdiction to hear appeals from cases involving allegations of abuse or neglect under [§ 415.103](#) or [§ 415.504](#) is limited to those cases in which the review procedures contained in those sections have been followed and the confirmed report of abuse or neglect has been upheld. Op.Atty.Gen. [AGO 88-6 \(March 21, 1988.\)](#)

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Current with chapters in effect from the 2005 First Regular Session of the Nineteenth Legislature; see scope message for specific chapters in effect

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