

IN THE CIRCUIT COURT OF THE EIGHTH JUDICIAL CIRCUIT
IN AND FOR ALACHUA COUNTY, FLORIDA

ANNEKE ACREE, as parent and
Natural guardian of M.A.
Plaintiff,

CASE NO.: 2024-CA-003461
DIVISION: J

v.

CITY OF ALACHUA, FLORIDA, and the
ALACHUA COUNTY SCHOOL BOARD
Defendant

ORDER GRANTING CITY OF ALACHUA'S MOTION TO DISMISS

This matter came before the Court on February 28, 2025, for a hearing on Defendant, City of Alachua's Motion to Dismiss Plaintiff's Amended Complaint ("the Motion"). The Court having considered the Motion, argument of counsel, and being fully advised in the premises concludes:

Plaintiff's theory of "negligence per se" against the City is premised on an unknown City employee's failure to comply with the child abuse reporting guidelines of Chapter 39, Florida Statutes. Notably, Plaintiff does not identify the City employee or employees purported to have been negligent, nor does she articulate what knowledge is imputed to the City regarding the alleged abuse.

Notwithstanding the pleading deficiencies, which alone would warrant dismissal, Chapter 39 does not create a civil cause of action. Rather, the penalty for failing to comply with the requirements of Chapter 39 is a criminal action, as set forth in Section 39.205(1), Florida Statutes, which provides that "[a] person who knowingly and willfully fails to report to the central abuse hotline known or suspected child abuse, abandonment, or neglect, or who knowingly and willfully prevents another person from doing so, commits a felony of the third

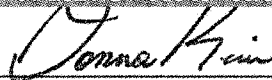
degree.” *Fla. Stat.* §39.205(1). It is well-settled that where a statute does not expressly provide for a civil cause of action and the legislative history did not reveal intent to create a cause of action, a Florida statute does not create a private cause of action upon which a party is entitled to relief. *Murphy v. Sinha Corp.*, 644 So. 2d 983, 986 (Fla. 1994). Florida courts have consistently held that Chapter 39 and its predecessor versions do not create an implied cause of action for failure to report child abuse. See *Welker v. Southern Baptist Hosp. of Fla., Inc.*, 864 So.2d 1178 (Fla. 1st DCA 2004)(quashed on other grounds); *J.B. v. Department of Health & Rehabilitative Servs.*, 591 So. 2d 317 (Fla. 4th DCA 1991); *Fischer v. Metcalf*, 543 So. 2d 785 (Fla. 3d DCA 1989).

For the reasons stated above and more fully stated on the record, it is ORDERED and ADJUDGED that:

1. Defendant, City of Alachua’s motion to dismiss is granted.
2. Plaintiff’s Amended Complaint against the City is dismissed with prejudice.

Done and Ordered in Chambers in Gainesville, Alachua County, Florida on this Monday, March 31, 2025.

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Donna M. Keim, Circuit Judge
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CERTIFICATE OF SERVICE

I do hereby certify that a true and correct copy of the above has been served by e-portal or by First Class US Mail on this Monday, March 31, 2025.


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