

By Senator Diaz-Balart

37-870A-00

1 A bill to be entitled
2 An act relating to confidentiality of records;
3 amending s. 119.07, F.S.; providing for the
4 exemption of certain information regarding
5 personnel, and the families of personnel, of
6 the Department of Children and Family Services
7 who provide services to abused, neglected,
8 abandoned, or exploited children, disabled
9 adults, and elderly persons; providing for
10 future review and repeal; providing a
11 legislative finding of necessity; providing for
12 the release of certain records by the court in
13 cases involving the death of a child, disabled
14 adult, or elderly person; providing an
15 effective date.

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17 Be It Enacted by the Legislature of the State of Florida:

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19 Section 1. Paragraph (i) of subsection (3) of section
20 119.07, Florida Statutes, is amended, paragraph (b) of
21 subsection (7) of that section is amended, and paragraph (d)
22 is added to subsection (7) of that section, to read:

23 119.07 Inspection, examination, and duplication of
24 records; exemptions.--

25 (3)

26 (i)1. The home addresses, telephone numbers, social
27 security numbers, and photographs of active or former law
28 enforcement personnel, including correctional and correctional
29 probation officers, of personnel, and of the families of such
30 personnel, of the Department of Children and Family Services
31 whose duties include the investigation of abuse, neglect,

1 exploitation, fraud, theft, or other criminal activities, or
2 the provision of services to abused, neglected, abandoned or
3 exploited children, disabled adults, and elderly persons, and
4 of personnel of the Department of Health whose duties are to
5 support the investigation of child abuse or neglect, and
6 personnel of the Department of Revenue or local governments
7 whose responsibilities include revenue collection and
8 enforcement or child support enforcement, and~~the~~ home
9 addresses, telephone numbers, social security numbers,
10 photographs, and places of employment of the spouses and
11 children of such personnel~~and~~ the names and locations of
12 schools and day care facilities attended by the children of
13 such personnel are exempt from the provisions of subsection
14 (1). The home addresses, telephone numbers, and photographs of
15 firefighters certified in compliance with s. 633.35; the home
16 addresses, telephone numbers, photographs, and places of
17 employment of the spouses and children of such firefighters;
18 and the names and locations of schools and day care facilities
19 attended by the children of such firefighters are exempt from
20 subsection (1). The home addresses and telephone numbers of
21 justices of the Supreme Court, district court of appeal
22 judges, circuit court judges, and county court judges; the
23 home addresses, telephone numbers, and places of employment of
24 the spouses and children of justices and judges; and the names
25 and locations of schools and day care facilities attended by
26 the children of justices and judges are exempt from the
27 provisions of subsection (1). The home addresses, telephone
28 numbers, social security numbers, and photographs of current
29 or former state attorneys, assistant state attorneys,
30 statewide prosecutors, or assistant statewide prosecutors; the
31 home addresses, telephone numbers, social security numbers,

1 photographs, and places of employment of the spouses and
2 children of current or former state attorneys, assistant state
3 attorneys, statewide prosecutors, or assistant statewide
4 prosecutors; and the names and locations of schools and day
5 care facilities attended by the children of current or former
6 state attorneys, assistant state attorneys, statewide
7 prosecutors, or assistant statewide prosecutors are exempt
8 from subsection (1) and s. 24(a), Art. I of the State
9 Constitution. The home addresses and home telephone numbers of
10 county and municipal code inspectors and code enforcement
11 officers are confidential and exempt from the provisions of
12 subsection (1) and s. 24(a), Art. I of the State Constitution.

13 2. An agency that is the custodian of the personal
14 information specified in subparagraph 1. and that is not the
15 employer of the officer, employee, justice, judge, or other
16 person specified in subparagraph 1. shall maintain the
17 confidentiality of the personal information only if the
18 officer, employee, justice, judge, other person, or employing
19 agency of the designated employee submits a written request
20 for confidentiality to the custodial agency.

21 (7)

22 (b) In cases involving serious bodily injury to a
23 child, a disabled adult or an elderly person, and in cases
24 involving the death of a child, a disabled adult or an elderly
25 person when the death has not yet been determined to be the
26 result of abuse, abandonment, or neglect,the Department of
27 Children and Family Services may petition the court for an
28 order for the immediate public release of records of the
29 department which pertain to the investigation of abuse,
30 neglect, abandonment, or exploitation of the child, disabled
31 adult, or elderly person who suffered serious bodily injury or

1 death. The petition must be personally served upon the child,
2 disabled adult, or elderly person, the child's parents or
3 guardian, the legal guardian of that person, if any, and any
4 person named as an alleged perpetrator in the report of abuse,
5 neglect, abandonment, or exploitation. The court must
6 determine if good cause exists for the public release of the
7 records sought no later than 24 hours, excluding Saturdays,
8 Sundays, and legal holidays, after the date the department
9 filed the petition with the court. If the court has neither
10 granted nor denied the petition within the 24-hour time
11 period, the department may release to the public summary
12 information including:

- 13 1. A confirmation that an investigation has been
14 conducted concerning the alleged victim.
- 15 2. The dates and brief description of procedural
16 activities undertaken during the department's investigation.
- 17 3. The date of each judicial proceeding, a summary of
18 each participant's recommendations made at the judicial
19 proceedings, and the rulings of the court.

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21 The summary information may not include the name of, or other
22 identifying information with respect to, any person identified
23 in any investigation. In making a determination to release
24 confidential information, the court shall balance the best
25 interests of the disabled adult or elderly person or child who
26 is the focus of the investigation and, in the case of the
27 child, the interests of that child's siblings, together with
28 the privacy rights of other persons identified in the reports
29 against the public interest for access to public records.
30 However, this paragraph does not contravene ss. 39.202 and
31 415.107, which protect the name of any person reporting abuse,

1 neglect, or exploitation of a child, a disabled adult, or an
2 elderly person.

3 (d) In cases involving the death of a child, a
4 disabled adult, or an elderly person, the Department of
5 Children and Family Services may petition the court for an
6 order for the immediate public release of records of the
7 department which pertain to the investigation of abuse,
8 neglect, abandonment, or exploitation of the child, disabled
9 adult, or elderly person who died. The department shall
10 personally serve the petition upon the child's parents or
11 guardian, the legal guardian of the disabled adult or elderly
12 person, if any, and any person named as an alleged perpetrator
13 in the report of abuse, neglect, abandonment, or exploitation.
14 The court shall determine whether good cause exists for the
15 public release of the records within 24 hours, excluding
16 Saturdays, Sundays, and legal holidays, from the date the
17 department filed the petition with the court. If the court has
18 neither granted nor denied the petition within the 24-hour
19 time period, the department may release to the public summary
20 information including:

21 1. A confirmation that an investigation has been
22 conducted concerning the alleged victim.

23 2. The dates and brief descriptions of procedural
24 activities undertaken during the department's investigation.

25 3. The date of each judicial proceeding, a summary of
26 each participant's recommendations made at the judicial
27 proceedings, and the ruling of the court.

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29 In making a determination to release confidential information,
30 the court shall balance the best interests of the disabled
31 adult, elderly person, or child who is the focus of the

1 investigation and, in the case of the child, the interest of
2 that child's siblings, together with the privacy rights of
3 other persons identified in the reports against the public
4 interest. However, nothing in this paragraph shall contravene
5 the provisions of ss. 415.51, 39.202, and 415.107, which
6 protect the name of any person reporting abuse, neglect, or
7 exploitation of a child, a disabled adult, or an elderly
8 person.

9 Section 2. The exemption from the public records law
10 of records specified in section 119.07(3)(i)1., Florida
11 Statutes, of personnel, and the families of personnel, of the
12 Department of Children and Family Services who provide
13 services to abused, neglected, abandoned, or exploited
14 children, disabled adults, or elderly persons, as provided in
15 section 1, is subject to the Open Government Sunset Review Act
16 of 1995 in accordance with section 119.15, Florida Statutes,
17 and shall stand repealed on October 2, 2005, unless reviewed
18 and saved from repeal through reenactment by the Legislature.

19 Section 3. The Legislature finds that it is a public
20 necessity to protect the confidentiality of personal records
21 and information of personnel, and the families of personnel,
22 of the Department of Children and Family Services who provide
23 services to abused, neglected, or exploited children, disabled
24 adults, and elderly persons. The Legislature finds that the
25 release of such information could enable disgruntled persons
26 to harass the personnel of the department and their families.
27 The Legislature further finds that no valid public purpose is
28 served by making such information available to the public.

29 Section 4. This act shall take effect upon becoming a
30 law.
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SENATE SUMMARY

Provides an exemption from the public records law for certain information regarding personnel, and the families of personnel, of the Department of Children and Family Services who provide services to abused, neglected, abandoned, or exploited children, disabled adults, and elderly persons. Provides a finding of necessity. Provides for future review and repeal. Provides for the release by the court of certain records in cases involving the death of a child, disabled adult, or elderly person.