

By the Committee on Children and Families; and Senator Lynn

300-2054-03

1 A bill to be entitled
2 An act relating to dependent children; amending
3 s. 39.202, F.S.; clarifying a right of access
4 to records for certain attorneys and providing
5 a right to access for certain school employees
6 and certain employees and volunteers of a
7 certified domestic violence center; authorizing
8 the Department of Children and Family Services
9 and specified law enforcement agencies to
10 release certain information when a child is
11 under investigation or supervision; providing
12 an exception; providing that persons releasing
13 such information are not subject to civil or
14 criminal penalty for the release; creating s.
15 39.0136, F.S.; providing standards for
16 background screening of persons seeking
17 approval as relative and nonrelative caregivers
18 of children; enumerating offenses the existence
19 of which will cause disapproval; specifying the
20 date that application of standards for
21 background screening becomes effective;
22 amending ss. 39.301, 39.401, 39.521, F.S.;
23 clarifying the screening that must occur for
24 purposes of a child protective investigation,
25 for the placement of a child, and for providing
26 information to the court; amending s. 39.812,
27 F.S.; requiring certain screening of
28 prospective adoptive parents; amending s.
29 63.037, F.S.; exempting adoption proceedings
30 initiated under ch. 39, F.S., from certain
31 provisions of s. 63.092, F.S., relating to

1 records checks; amending s. 63.092, F.S.;
2 conforming a cross-reference; amending s.
3 119.07, F.S.; providing for the venue of
4 actions sought to release exempted public
5 records under ch. 39, F.S.; creating s.
6 409.017, F.S.; providing standards for
7 background screening of persons in a household
8 seeking licensure as a foster home; enumerating
9 offenses the existence of which will cause
10 disapproval; providing for rescreening;
11 imposing a duty upon the licensee; specifying
12 the date that application of the standards for
13 background screening becomes effective;
14 amending s. 409.175, F.S.; redefining the term
15 "personnel" and deleting the definition of the
16 term "screening"; creating s. 409.177, F.S.;
17 providing standards for background screening
18 for child-placing and residential child-caring
19 agencies; providing for denial of a license and
20 exclusion from employment; creating s.
21 409.1759, F.S.; providing for background
22 screening for summer camp personnel; providing
23 an exception; repealing s. 435.045, F.S.,
24 relating to requirements for placement of
25 dependent children; amending s. 937.021, F.S.;
26 providing for the filing of police reports for
27 missing children in the county or municipality
28 where the child was last seen; providing an
29 effective date.

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

1 Section 1. Subsection (2) of section 39.202, Florida
2 Statutes, is amended, present subsections (4) through (7) of
3 that section are renumbered as subsections (5) through (8),
4 respectively, and subsection (4) is added to that section to
5 read:

6 39.202 Confidentiality of reports and records in cases
7 of child abuse or neglect.--

8 (2) Except as provided in subsection (4), access to
9 such records, excluding the name of the reporter which shall
10 be released only as provided in subsection (5)~~(4)~~, shall be
11 granted only to the following persons, officials, and
12 agencies:

13 (a) Employees, authorized agents, or contract
14 providers of the department, the Department of Health, or
15 county agencies responsible for carrying out:

- 16 1. Child or adult protective investigations;
- 17 2. Ongoing child or adult protective services;
- 18 3. Healthy Start services; or
- 19 4. Licensure or approval of adoptive homes, foster
20 homes, or child care facilities, or family day care homes or
21 informal child care providers who receive subsidized child
22 care funding, or other homes used to provide for the care and
23 welfare of children.

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25 Also, employees or agents of the Department of Juvenile
26 Justice responsible for the provision of services to children,
27 pursuant to chapters 984 and 985.

28 (b) Criminal justice agencies of appropriate
29 jurisdiction.

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1 (c) The state attorney of the judicial circuit in
2 which the child resides or in which the alleged abuse or
3 neglect occurred.

4 (d) The parent or legal custodian of any child who is
5 alleged to have been abused, abandoned, or neglected, and the
6 child, and their attorneys, including any attorney
7 representing a child in civil or criminal proceedings. This
8 access shall be made available no later than 30 days after the
9 department receives the initial report of abuse, neglect, or
10 abandonment. However, any information otherwise made
11 confidential or exempt by law shall not be released pursuant
12 to this paragraph.

13 (e) Any person alleged in the report as having caused
14 the abuse, abandonment, or neglect of a child. This access
15 shall be made available no later than 30 days after the
16 department receives the initial report of abuse, abandonment,
17 or neglect and, when the alleged perpetrator is not a parent,
18 shall be limited to information involving the protective
19 investigation only and shall not include any information
20 relating to subsequent dependency proceedings. However, any
21 information otherwise made confidential or exempt by law shall
22 not be released pursuant to this paragraph.

23 (f) A court upon its finding that access to such
24 records may be necessary for the determination of an issue
25 before the court; however, such access shall be limited to
26 inspection in camera, unless the court determines that public
27 disclosure of the information contained therein is necessary
28 for the resolution of an issue then pending before it.

29 (g) A grand jury, by subpoena, upon its determination
30 that access to such records is necessary in the conduct of its
31 official business.

1 (h) Any appropriate official of the department
2 responsible for:

3 1. Administration or supervision of the department's
4 program for the prevention, investigation, or treatment of
5 child abuse, abandonment, or neglect, or abuse, neglect, or
6 exploitation of a vulnerable adult, when carrying out his or
7 her official function;

8 2. Taking appropriate administrative action concerning
9 an employee of the department alleged to have perpetrated
10 child abuse, abandonment, or neglect, or abuse, neglect, or
11 exploitation of a vulnerable adult; or

12 3. Employing and continuing employment of personnel of
13 the department.

14 (i) Any person authorized by the department who is
15 engaged in the use of such records or information for bona
16 fide research, statistical, or audit purposes. Such individual
17 or entity shall enter into a privacy and security agreement
18 with the department and shall comply with all laws and rules
19 governing the use of such records and information for research
20 and statistical purposes. Information identifying the subjects
21 of such records or information shall be treated as
22 confidential by the researcher and shall not be released in
23 any form.

24 (j) The Division of Administrative Hearings for
25 purposes of any administrative challenge.

26 (k) Any appropriate official of a Florida advocacy
27 council investigating a report of known or suspected child
28 abuse, abandonment, or neglect; the Auditor General or the
29 Office of Program Policy Analysis and Government
30 Accountability for the purpose of conducting audits or
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1 examinations pursuant to law; or the guardian ad litem for the
2 child.

3 (l) Employees or agents of an agency of another state
4 that has comparable jurisdiction to the jurisdiction described
5 in paragraph (a).

6 (m) The Public Employees Relations Commission for the
7 sole purpose of obtaining evidence for appeals filed pursuant
8 to s. 447.207. Records may be released only after deletion of
9 all information which specifically identifies persons other
10 than the employee.

11 (n) Employees or agents of the Department of Revenue
12 responsible for child support enforcement activities.

13 (o) Any person in the event of the death of a child
14 determined to be a result of abuse, abandonment, or neglect.
15 Information identifying the person reporting abuse,
16 abandonment, or neglect shall not be released. Any information
17 otherwise made confidential or exempt by law shall not be
18 released pursuant to this paragraph.

19 (p) The principal of a public school, private school,
20 or charter school where the child is a student. Information
21 contained in the records which the principal determines are
22 necessary for a school employee to effectively provide a
23 student with educational services may be released to that
24 employee.

25 (q) An employee or a volunteer of a certified domestic
26 violence center if the employee or volunteer is working at the
27 department's request as a case consultant or working with a
28 client who is also a client of the department.

29 (4) Notwithstanding any other provision of law, when a
30 child under investigation or supervision of the department or
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1 its contracted service providers is determined to be missing,
2 the following shall apply:

3 (a) The department may release the following
4 information to the public when it believes the release of the
5 information is likely to assist efforts in locating the child
6 or to promote the safety or well-being of the child:

7 1. The name of the child and the child's date of
8 birth;

9 2. A physical description of the child, including at a
10 minimum the height, weight, hair color, eye color, gender, and
11 any identifying physical characteristics of the child; and

12 3. A photograph of the child.

13 (b) With the concurrence of the law enforcement agency
14 primarily responsible for investigating the incident, the
15 department may release any additional information it believes
16 likely to assist efforts in locating the child or to promote
17 the safety or well-being of the child.

18 (c) The law enforcement agency primarily responsible
19 for investigating the incident may release any information
20 received from the department regarding the investigation, if
21 it believes the release of the information is likely to assist
22 efforts in locating the child or to promote the safety or
23 well-being of the child.

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25 The good-faith publication or release of this information by
26 the department, a law enforcement agency, or any recipient of
27 the information as specifically authorized by this subsection
28 shall not subject the person, agency or entity releasing the
29 information to any civil or criminal penalty. This subsection
30 does not authorize the release of the name of the reporter,
31 which may be released only as provided in subsection (5).

1 Section 2. Section 39.0136, Florida Statutes, is
2 created to read:

3 39.0136 Security background investigations.--

4 (1) The department shall conduct security background
5 investigations for any relative or nonrelative caregiver who
6 is not a licensed foster or shelter parent and who is being
7 considered for placement of a child subject to the provisions
8 of this chapter. The security background investigation shall
9 include all persons older than 12 years of age who reside in
10 the home of the potential caregiver. For purposes of this
11 section, the term "relative" does not include the parent who
12 was designated by the court as the secondary residential
13 parent in any situation in which the court ordered shared
14 parental responsibility or the parent who was granted sole
15 parental responsibility if the court did not order shared
16 parental responsibility. The term "relative" does include the
17 parent who was not granted sole parental responsibility if the
18 court did not order shared parental responsibility.

19 (2) For the purposes of this section, security
20 background investigations shall include, but not be limited
21 to, fingerprinting for all purposes and checks in this
22 subsection, statewide criminal and juvenile records checks
23 through the Department of Law Enforcement and the Department
24 of Juvenile Justice, national criminal records checks through
25 the Federal Bureau of Investigation, and local criminal
26 records checks through local law enforcement agencies. For
27 children older than 12 years of age, the security background
28 investigation shall be limited to statewide criminal and
29 juvenile records checks through the Department of Law
30 Enforcement and local criminal records checks through local
31 law enforcement agencies.

1 (3) An offense that would otherwise be a disqualifying
2 offense under this section shall not be considered a
3 disqualifying offense if committed by a current or former
4 foster child before his or her 18th birthday.

5 (4) When fingerprinting is required under this section
6 and a placement decision is being made under exigent
7 circumstances, the placement may be made based on the results
8 of a national name check through the National Crime
9 Information Center, so long as the required fingerprint
10 information is provided to the Federal Bureau of Investigation
11 within the timeframe established by the Federal Government.

12 (5) The security background investigations under this
13 section must ensure that no person older than 12 years of age
14 who resides in the home of a relative or nonrelative with whom
15 a child is to be placed has been found guilty of, regardless
16 of adjudication, or entered a plea of nolo contendere or
17 guilty to, any felony offense prohibited under any of the
18 following provisions of the Florida Statutes or under any
19 similar statute of another jurisdiction at any time:

20 (a) Any statute creating a felony offense relating to
21 domestic violence, as defined in s. 741.28.

22 (b) Section 782.04, relating to murder.

23 (c) Section 782.07, relating to manslaughter,
24 aggravated manslaughter of an elderly person or disabled
25 adult, or aggravated manslaughter of a child.

26 (d) Section 784.021, relating to aggravated assault.

27 (e) Section 784.045, relating to aggravated battery.

28 (f) Section 794.011, relating to sexual battery.

29 (g) Former s. 794.041, relating to prohibited act of
30 persons in familial or custodial authority.

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1 (h) Section 796.03, relating to procuring a person
2 younger than 18 years of age for prostitution.

3 (i) Section 800.04, relating to lewd or lascivious
4 offenses committed upon or in the presence of persons younger
5 than 16 years of age.

6 (j) Section 827.03, relating to child abuse,
7 aggravated child abuse, or neglect of a child.

8 (k) Section 827.04(3), relating to the impregnation of
9 a child younger than 16 years of age by a person 21 years of
10 age or older.

11 (l) Former s. 827.05, relating to negligent treatment
12 of children.

13 (m) Section 827.071, relating to sexual performance by
14 a child.

15 (n) Section 847.0135, relating to computer
16 pornography.

17 (o) Section 847.0145, relating to the selling or
18 buying of minors.

19 (6) The security background investigations under this
20 section must ensure that no person older than 12 years of age
21 who resides in the home of a relative or nonrelative with whom
22 a child is to be placed has been found guilty of, regardless
23 of adjudication, or entered a plea of nolo contendere or
24 guilty to, any felony offense prohibited under any of the
25 following provisions of the Florida Statutes or under any
26 similar statute of another jurisdiction and the offense was
27 committed within the previous 5 years:

28 (a) Section 414.39, relating to public assistance
29 fraud.

30 (b) Section 415.111, relating to adult abuse, neglect,
31 or exploitation of an aged person or disabled adult.

- 1 (c) Section 782.071, relating to vehicular homicide.
2 (d) Section 782.09, relating to killing of an unborn
3 child by injury to the mother.
4 (e) Section 784.011, relating to assault, if the
5 victim of the offense was a minor.
6 (f) Section 784.03, relating to battery, if the victim
7 of the offense was a minor.
8 (g) Section 784.075, relating to battery on a staff
9 member of a detention or commitment facility.
10 (h) Section 787.01, relating to kidnapping.
11 (i) Section 787.02, relating to false imprisonment.
12 (j) Section 787.04(2), relating to taking, enticing,
13 or removing a child beyond the state limits with criminal
14 intent pending custody proceedings.
15 (k) Section 787.04(3), relating to carrying a child
16 beyond the state lines with criminal intent to avoid producing
17 a child at a custody hearing or delivering the child to the
18 designated person.
19 (l) Section 790.115(1), relating to exhibiting
20 firearms or weapons within 1,000 feet of a school.
21 (m) Section 790.115(2)(b), relating to possessing an
22 electric weapon or device, destructive device, or other weapon
23 on school property.
24 (n) Chapter 796, relating to prostitution, except s.
25 796.03, relating to procuring a person younger than 18 years
26 of age for prostitution.
27 (o) Section 798.02, relating to lewd and lascivious
28 behavior.
29 (p) Chapter 800, relating to lewdness and indecent
30 exposure with the exception of s. 800.04, relating to lewd or
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- 1 lascivious offenses committed upon or in the presence of
2 persons younger than 16 years of age.
- 3 (q) Section 806.01, relating to arson.
- 4 (r) Chapter 812, relating to theft, robbery, and
5 related crimes, if the offense is a felony.
- 6 (s) Section 817.563, relating to the fraudulent sale
7 of controlled substances, if the offense was a felony.
- 8 (t) Section 825.102, relating to abuse, aggravated
9 abuse, or neglect of an elderly person or disabled adult.
- 10 (u) Section 825.1025, relating to lewd or lascivious
11 offenses committed upon or in the presence of an elderly
12 person or disabled adult.
- 13 (v) Section 825.103, relating to exploitation of an
14 elderly person or disabled adult, if the offense was a felony.
- 15 (w) Section 826.04, relating to incest.
- 16 (x) Section 827.04, relating to contributing to the
17 delinquency or dependency of a child except s. 827.04(3),
18 relating to impregnation of a child younger than 16 years of
19 age by a person 21 years of age or older.
- 20 (y) Section 831.01, relating to forgery.
- 21 (z) Chapter 837, relating to perjury.
- 22 (aa) Section 843.01, relating to resisting arrest with
23 violence.
- 24 (bb) Section 843.025, relating to depriving a law
25 enforcement officer, correctional officer, or correctional
26 probation officer of means of protection or communication.
- 27 (cc) Section 843.12, relating to aiding in an escape.
- 28 (dd) Section 843.13, relating to aiding in the escape
29 of a juvenile inmate in a correctional institution.
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1 (ee) Chapter 847, relating to obscene literature,
2 except s. 847.0135, relating to computer pornography, and s.
3 847.0145, relating to the selling or buying of minors.

4 (ff) Chapter 893, relating to drug abuse prevention
5 and control, if the offense was a felony or if any other
6 person involved in the offense was a minor.

7 (gg) Section 944.35(3), relating to inflicting cruel
8 or inhuman treatment on an inmate resulting in great bodily
9 harm.

10 (hh) Section 944.46, relating to harboring,
11 concealing, or aiding an escaped prisoner.

12 (ii) Section 944.47, relating to introduction of
13 contraband into a correctional facility.

14 (jj) Section 985.40445, relating to sexual misconduct
15 in a juvenile justice program.

16 (kk) Section 985.4046, relating to introduction of
17 contraband into a detention facility.

18 (7) If the security background investigation of a
19 relative or nonrelative being considered for placement of a
20 child reveals any misdemeanor conviction, any findings of
21 delinquency, or any felony conviction not identified in
22 subsection (4) or subsection (5), this information shall be
23 recorded in the record of the investigation and shall be
24 considered as a part of the risk assessment that is used to
25 determine the appropriate placement for the child.

26 (8) All information concerning any person with whom
27 the child is placed which was obtained through the security
28 background investigation shall be presented to the court at
29 the shelter hearing. All information from the Federal Bureau
30 of Investigation and any information that has been sealed or
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1 any reference to the existence of expunged information may be
2 shared only with the court in an inspection in camera.

3 (9) Any caregiver who becomes aware of a person
4 becoming a household member of a household where a child is
5 placed must, within 5 days after that person has become a
6 household member, submit to the department the information
7 necessary to conduct a screening under this section.

8 (10) A relative or nonrelative caregiver with whom a
9 child had been placed subject to the provisions of this
10 chapter as of June 30, 2003, shall not be subject to the
11 provisions of this section. The placement of any child subject
12 to the provisions of this chapter with a relative or
13 nonrelative caregiver after June 30, 2003, shall require that
14 the relative or nonrelative caregiver be subject to the
15 security background investigation provided for in this
16 section.

17 Section 3. Paragraph (c) of subsection (9) of section
18 39.301, Florida Statutes, is amended to read:

19 39.301 Initiation of protective investigations.--

20 (9) For each report it receives, the department shall
21 perform an onsite child protective investigation that includes
22 a face-to-face interview with the child, other siblings,
23 parents, and other adults in the household and an onsite
24 assessment of the child's residence in order to:

25 (c) Determine the immediate and long-term risk to each
26 child by conducting a security background check as provided in
27 s. 39.0136 ~~state and federal records checks, including, when~~
28 ~~feasible, the records of the Department of Corrections, on the~~
29 ~~parents, legal custodians, or caregivers, and any other~~
30 ~~persons in the same household. This information shall be used~~
31 ~~solely for purposes supporting the detection, apprehension,~~

1 ~~prosecution, pretrial release, posttrial release, or~~
2 ~~rehabilitation of criminal offenders or persons accused of the~~
3 ~~crimes of child abuse, abandonment, or neglect and shall not~~
4 ~~be further disseminated or used for any other purpose.~~ The
5 department's child protection investigators are hereby
6 designated a criminal justice agency for the purpose of
7 accessing criminal justice information to be used for
8 enforcing this state's laws concerning the crimes of child
9 abuse, abandonment, and neglect.

10 Section 4. Subsection (3) of section 39.401, Florida
11 Statutes, is amended to read:

12 39.401 Taking a child alleged to be dependent into
13 custody; law enforcement officers and authorized agents of the
14 department.--

15 (3) If the child is taken into custody by, or is
16 delivered to, an authorized agent of the department, the
17 authorized agent shall review the facts supporting the removal
18 with an attorney representing the department. The purpose of
19 this review shall be to determine whether probable cause
20 exists for the filing of a shelter petition. If the facts are
21 not sufficient to support the filing of a shelter petition,
22 the child shall immediately be returned to the custody of the
23 parent or legal custodian. If the facts are sufficient to
24 support the filing of the shelter petition and the child has
25 not been returned to the custody of the parent or legal
26 custodian, the department shall file the petition and schedule
27 a hearing, and the attorney representing the department shall
28 request that a shelter hearing be held as quickly as possible,
29 not to exceed 24 hours after the removal of the child. While
30 awaiting the shelter hearing, the authorized agent of the
31 department may place the child in licensed shelter care or may

1 release the child to a parent or legal custodian or
2 responsible adult relative who shall be given priority
3 consideration over a licensed placement, or a responsible
4 adult approved by the department when this is in the best
5 interests of the child. Any placement of a child which is not
6 in a licensed shelter must be preceded by a security
7 background investigation, as described in s. 39.0136 ~~local and~~
8 ~~state criminal records check, as well as a search of the~~
9 ~~department's automated abuse information system, on all~~
10 ~~members of the household, to assess the child's safety within~~
11 ~~the home.~~ In addition, the department may authorize placement
12 of a housekeeper/homemaker in the home of a child alleged to
13 be dependent until the parent or legal custodian assumes care
14 of the child.

15 Section 5. Paragraphs (k) and (r) of subsection (2) of
16 section 39.521, Florida Statutes, are amended to read:

17 39.521 Disposition hearings; powers of disposition.--

18 (2) The predisposition study must provide the court
19 with the following documented information:

20 (k) A Central Florida Abuse Hotline Information System
21 ~~(FAHIS)~~ history and criminal records check as provided for in
22 s. 39.0136 for all caregivers, family members, and individuals
23 residing within the household from which the child was
24 removed.

25 (r) If the child has been removed from the home and
26 will be remaining with a relative or other adult approved by
27 the court, a home study report concerning the proposed
28 placement shall be included in the predisposition report.
29 Prior to recommending to the court any out-of-home placement
30 for a child other than placement in a licensed shelter or
31 foster home, the department shall conduct a study of the home

1 of the proposed legal custodians, which must include, at a
2 minimum:

3 1. An interview with the proposed legal custodians to
4 assess their ongoing commitment and ability to care for the
5 child.

6 2. Records checks through the Central Florida Abuse
7 Hotline Information System (FAHIS), and a security background
8 investigation as provided for in s. 39.0136 ~~local and~~
9 ~~statewide criminal and juvenile records checks through the~~
10 ~~Department of Law Enforcement, on all household members 12~~
11 ~~years of age or older and any other persons made known to the~~
12 ~~department who are frequent visitors in the home.~~
13 ~~Out-of-state criminal records checks must be initiated for any~~
14 ~~individual designated above who has resided in a state other~~
15 ~~than Florida provided that state's laws allow the release of~~
16 ~~these records. The out-of-state criminal records must be filed~~
17 ~~with the court within 5 days after receipt by the department~~
18 ~~or its agent.~~

19 3. An assessment of the physical environment of the
20 home.

21 4. A determination of the financial security of the
22 proposed legal custodians.

23 5. A determination of suitable child care arrangements
24 if the proposed legal custodians are employed outside of the
25 home.

26 6. Documentation of counseling and information
27 provided to the proposed legal custodians regarding the
28 dependency process and possible outcomes.

29 7. Documentation that information regarding support
30 services available in the community has been provided to the
31 proposed legal custodians.

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2 The department shall not place the child or continue the
3 placement of the child in a home under shelter or
4 postdisposition placement if the results of the home study are
5 unfavorable, unless the court finds that this placement is in
6 the child's best interest.

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8 Any other relevant and material evidence, including other
9 written or oral reports, may be received by the court in its
10 effort to determine the action to be taken with regard to the
11 child and may be relied upon to the extent of its probative
12 value, even though not competent in an adjudicatory hearing.
13 Except as otherwise specifically provided, nothing in this
14 section prohibits the publication of proceedings in a hearing.

15 Section 6. Subsection (6) is added to section 39.812,
16 Florida Statutes, to read:

17 39.812 Postdisposition relief; petition for
18 adoption.--

19 (6) Any person considered for placement for the
20 adoption of a child under this chapter must meet the screening
21 requirements set forth in s. 39.0136.

22 Section 7. Section 63.037, Florida Statutes, is
23 amended to read:

24 63.037 Proceedings applicable to cases resulting from
25 a termination of parental rights under chapter 39.--A case in
26 which a minor becomes available for adoption after the
27 parental rights of each parent have been terminated by a
28 judgment entered pursuant to chapter 39 shall be governed by
29 s. 39.812 and this chapter. Adoption proceedings initiated
30 under chapter 39 are exempt from the following provisions of
31 this chapter: disclosure requirements for the adoption entity

1 provided in s. 63.085; general provisions governing
2 termination of parental rights pending adoption provided in s.
3 63.087; notice and service provisions governing termination of
4 parental rights pending adoption provided in s. 63.088; ~~and~~
5 procedures for terminating parental rights pending adoption
6 provided in s. 63.089; and the records check of the
7 department's central abuse hotline and criminal records
8 correspondence checks provided in s. 63.092(3)(b).

9 Section 8. Subsection (3) of section 63.092, Florida
10 Statutes, is amended to read:

11 63.092 Report to the court of intended placement by an
12 adoption entity; at-risk placement; preliminary study.--

13 (3) PRELIMINARY HOME STUDY.--Before placing the minor
14 in the intended adoptive home, a preliminary home study must
15 be performed by a licensed child-placing agency, a
16 child-caring agency registered under s. 409.176, a licensed
17 professional, or agency described in s. 61.20(2), unless the
18 petitioner is a stepparent, a spouse of the parent, or a
19 relative. The preliminary study shall be completed within 30
20 days after the receipt by the court of the adoption entity's
21 report, but in no event may the minor be placed in the
22 prospective adoptive home prior to the completion of the
23 preliminary study unless ordered by the court. If the
24 petitioner is a stepparent, a spouse of the parent, or a
25 relative, the preliminary home study may be required by the
26 court for good cause shown. The department is required to
27 perform the preliminary home study only if there is no
28 licensed child-placing agency, child-caring agency registered
29 under s. 409.176, licensed professional, or agency described
30 in s. 61.20(2), in the county where the prospective adoptive
31 parents reside. The preliminary home study must be made to

1 determine the suitability of the intended adoptive parents and
2 may be completed prior to identification of a prospective
3 adoptive minor. A favorable preliminary home study is valid
4 for 1 year after the date of its completion. Upon its
5 completion, a copy of the home study must be provided to the
6 intended adoptive parents who were the subject of the home
7 study. A minor may not be placed in an intended adoptive home
8 before a favorable preliminary home study is completed unless
9 the adoptive home is also a licensed foster home under s.
10 409.175. The preliminary home study must include, at a
11 minimum:

- 12 (a) An interview with the intended adoptive parents;
13 (b) Records checks of the department's central abuse
14 hotline registry and criminal records correspondence checks
15 pursuant to s. 435.03 ~~s. 435.045~~ through the Department of Law
16 Enforcement on the intended adoptive parents;
17 (c) An assessment of the physical environment of the
18 home;
19 (d) A determination of the financial security of the
20 intended adoptive parents;
21 (e) Documentation of counseling and education of the
22 intended adoptive parents on adoptive parenting;
23 (f) Documentation that information on adoption and the
24 adoption process has been provided to the intended adoptive
25 parents;
26 (g) Documentation that information on support services
27 available in the community has been provided to the intended
28 adoptive parents; and
29 (h) A copy of each signed acknowledgment required by
30 s. 63.085.

31

1 If the preliminary home study is favorable, a minor may be
2 placed in the home pending entry of the judgment of adoption.
3 A minor may not be placed in the home if the preliminary home
4 study is unfavorable. If the preliminary home study is
5 unfavorable, the adoption entity may, within 20 days after
6 receipt of a copy of the written recommendation, petition the
7 court to determine the suitability of the intended adoptive
8 home. A determination as to suitability under this subsection
9 does not act as a presumption of suitability at the final
10 hearing. In determining the suitability of the intended
11 adoptive home, the court must consider the totality of the
12 circumstances in the home. No minor may be placed in a home in
13 which there resides any person determined by the court to be a
14 sexual predator as defined in s. 775.21 or to have been
15 convicted of an offense listed in s. 63.089(4)(b)2.

16 Section 9. Paragraph (d) is added to subsection (7) of
17 section 119.07, Florida Statutes, to read:

18 119.07 Inspection, examination, and duplication of
19 records; exemptions.--

20 (7)

21 (d) Notwithstanding s. 47.011, any action seeking to
22 establish good cause for the release of public records that
23 are exempt and confidential pursuant to chapter 39 may be
24 brought in any county where some of the records are located,
25 where the individuals referred to in the records reside, where
26 the petitioner resides, or where the agency is located. If the
27 venue might have been laid in two or more counties, the person
28 bringing the action may select the county in which the action
29 is sought, subject only to the discretion of the court in the
30 fair administration of justice.

31

1 Section 10. Section 409.017, Florida Statutes, is
2 created to read:

3 409.017 Background screening for foster parents.--

4 (1) The department shall conduct security background
5 investigations for any person being considered by the
6 department for licensure as a foster parent. This
7 investigation shall be completed before the person may be
8 licensed as a foster parent and before a child is placed with
9 the prospective foster parent. The screening shall include any
10 person older than 12 years of age who resides in the home.

11 (2) For the purposes of this section, security
12 background investigations shall include, but not be limited
13 to, fingerprinting for all purposes and checks in this
14 subsection, statewide criminal and juvenile records checks
15 through the Department of Law Enforcement and the Department
16 of Juvenile Justice, national criminal records checks through
17 the Federal Bureau of Investigation, and local criminal
18 records checks through local law enforcement agencies. For
19 children older than 12 years of age, the security background
20 investigation shall be limited to statewide criminal and
21 juvenile records checks through the Department of Law
22 Enforcement and local criminal records checks through local
23 law enforcement agencies.

24 (3) For purposes of this section, offenses that would
25 otherwise be disqualifying are not disqualifying if committed
26 by a current or former foster child before the 18th birthday
27 of the child.

28 (4) The security background investigations under this
29 section must ensure that no foster parent licensed by the
30 state or person older than 12 years of age who resides in a
31 foster home, with the exception of current or former foster

1 children as specified in subsection (3), has been found guilty
2 of, regardless of adjudication, or entered a plea of nolo
3 contendere or guilty to, any felony offense prohibited under
4 any of the following provisions of the Florida Statutes or
5 under any similar statute of another jurisdiction at any time:

6 (a) Any statute creating a felony offense relating to
7 domestic violence, as defined in s. 741.28.

8 (b) Section 782.04, relating to murder.

9 (c) Section 782.07, relating to manslaughter,
10 aggravated manslaughter of an elderly person or disabled
11 adult, or aggravated manslaughter of a child.

12 (d) Section 784.021, relating to aggravated assault.

13 (e) Section 784.045, relating to aggravated battery.

14 (f) Section 794.011, relating to sexual battery.

15 (g) Former s. 794.041, relating to prohibited act of
16 persons in familial or custodial authority.

17 (h) Section 796.03, relating to procuring a person
18 younger than 18 years of age for prostitution.

19 (i) Section 800.04, relating to lewd or lascivious
20 offenses committed upon or in the presence of persons younger
21 than 16 years of age.

22 (j) Section 827.03, relating to child abuse,
23 aggravated child abuse, or neglect of a child.

24 (k) Section 827.04(3), relating to the impregnation of
25 a child younger than 16 years of age by a person 21 years of
26 age or older.

27 (l) Former s. 827.05, relating to negligent treatment
28 of children.

29 (m) Section 827.071, relating to sexual performance by
30 a child.

31

- 1 (n) Section 847.0135, relating to computer
2 pornography.
- 3 (o) Section 847.0145, relating to the selling or
4 buying of minors.
- 5 (5) The security background investigations under this
6 section must ensure that no foster parent licensed by the
7 state or person residing in a foster home who is older than 12
8 years of age, with the exception of current or former foster
9 children as specified in subsection (3), has been found guilty
10 of, regardless of adjudication, or entered a plea of nolo
11 contendere or guilty to, any felony offense prohibited under
12 any of the following provisions of the Florida Statutes or
13 under any similar statute of another jurisdiction and the
14 offense was committed within the previous 5 years:
- 15 (a) Section 414.39, relating to public assistance
16 fraud.
- 17 (b) Section 415.111, relating to adult abuse, neglect,
18 or exploitation of an aged person or disabled adult.
- 19 (c) Section 782.071, relating to vehicular homicide.
- 20 (d) Section 782.09, relating to killing of an unborn
21 child by injury to the mother.
- 22 (e) Section 784.011, relating to assault, if the
23 victim of the offense was a minor.
- 24 (f) Section 784.03, relating to battery, if the victim
25 of the offense was a minor.
- 26 (g) Section 784.075, relating to battery on a staff
27 member of a detention or commitment facility.
- 28 (h) Section 787.01, relating to kidnapping.
- 29 (i) Section 787.02, relating to false imprisonment.
- 30
- 31

1 (j) Section 787.04(2), relating to taking, enticing,
2 or removing a child beyond the state limits with criminal
3 intent pending custody proceedings.

4 (k) Section 787.04(3), relating to carrying a child
5 beyond the state lines with criminal intent to avoid producing
6 a child at a custody hearing or delivering the child to the
7 designated person.

8 (l) Section 790.115(1), relating to exhibiting
9 firearms or weapons within 1,000 feet of a school.

10 (m) Section 790.115(2)(b), relating to possessing an
11 electric weapon or device, destructive device, or other weapon
12 on school property.

13 (n) Chapter 796, relating to prostitution, except s.
14 796.03, relating to procuring a person younger than 18 years
15 of age for prostitution.

16 (o) Section 798.02, relating to lewd and lascivious
17 behavior.

18 (p) Chapter 800, relating to lewdness and indecent
19 exposure with the exception of s. 800.04, relating to lewd or
20 lascivious offenses committed upon or in the presence of
21 persons younger than 16 years of age.

22 (q) Section 806.01, relating to arson.

23 (r) Chapter 812, relating to theft, robbery, and
24 related crimes, if the offense is a felony.

25 (s) Section 817.563, relating to the fraudulent sale
26 of controlled substances, if the offense was a felony.

27 (t) Section 825.102, relating to abuse, aggravated
28 abuse, or neglect of an elderly person or disabled adult.

29 (u) Section 825.1025, relating to lewd or lascivious
30 offenses committed upon or in the presence of an elderly
31 person or disabled adult.

1 (v) Section 825.103, relating to exploitation of an
2 elderly person or disabled adult, if the offense was a felony.

3 (w) Section 826.04, relating to incest.

4 (x) Section 827.04, relating to contributing to the
5 delinquency or dependency of a child except s. 827.04(3),
6 relating to impregnation of a child younger than 16 years of
7 age by a person 21 years of age or older.

8 (y) Section 831.01, relating to forgery.

9 (z) Chapter 837, relating to perjury.

10 (aa) Section 843.01, relating to resisting arrest with
11 violence.

12 (bb) Section 843.025, relating to depriving a law
13 enforcement officer, correctional officer, or correctional
14 probation officer of means of protection or communication.

15 (cc) Section 843.12, relating to aiding in an escape.

16 (dd) Section 843.13, relating to aiding in the escape
17 of a juvenile inmate in a correctional institution.

18 (ee) Chapter 847, relating to obscene literature,
19 except s. 847.0135, relating to computer pornography, and s.
20 847.0145, relating to the selling or buying of minors.

21 (ff) Chapter 893, relating to drug abuse prevention
22 and control, if the offense was a felony or if any other
23 person involved in the offense was a minor.

24 (gg) Section 944.35(3), relating to inflicting cruel
25 or inhuman treatment on an inmate resulting in great bodily
26 harm.

27 (hh) Section 944.46, relating to harboring,
28 concealing, or aiding an escaped prisoner.

29 (ii) Section 944.47, relating to introduction of
30 contraband into a correctional facility.

31

1 (jj) Section 985.40445, relating to sexual misconduct
2 in a juvenile justice program.

3 (kk) Section 985.4046, relating to introduction of
4 contraband into a detention facility.

5 (6) If the security background investigation of a
6 person seeking licensure as a foster parent or any person
7 residing in the home, with the exception of current or former
8 foster children, reveals any findings of delinquency, any
9 misdemeanor conviction, or any felony conviction not
10 identified in subsection (4) or subsection (5), this
11 information shall be considered as a part of the determination
12 as to whether to issue a foster care license to the applicant
13 or to revoke a foster care license. In addition, any offenses
14 which would otherwise be disqualifying but which are not
15 disqualifying as a result of subsection (3) shall be
16 considered as a part of the determination as to whether to
17 issue a foster care license to the applicant or revoke a
18 foster care license.

19 (7) The security background investigation of a
20 prospective foster parent must ensure that the previous
21 licensing of any prospective foster parent and any information
22 relevant to such previous license is considered in deciding
23 whether or not to issue a foster care license.

24 (8) Persons who are licensed as foster parents shall
25 be rescreened pursuant to this section no less frequently than
26 upon each application for relicensing. The rescreening must
27 include, at a minimum, local criminal records checks through
28 local law enforcement agencies. At a minimum of every 5 years,
29 statewide criminal records checks through the Department of
30 Law Enforcement must also be conducted. The department may by
31 rule provide for more frequent rescreening.

1 (9) The licensee is responsible for ensuring that any
2 person becoming a member of the household of a licensed foster
3 home submits to the department, within 5 days after becoming a
4 household member, the information necessary to conduct a
5 screening under this section.

6 (10) Persons in a foster home that holds a valid
7 license on June 30, 2003, shall be subject only to the
8 rescreening requirements of subsection (8). The background
9 screening requirements that were in effect June 30, 2003,
10 shall continue to be the standards required for relicensure.

11 Section 11. Paragraphs (i) and (k) of subsection (2)
12 of section 409.175, Florida Statutes, are amended to read:

13 409.175 Licensure of family foster homes, residential
14 child-caring agencies, and child-placing agencies.--

15 (2) As used in this section, the term:

16 (i) "Personnel" means all owners, operators,
17 employees, and volunteers working in a child-placing agency,
18 ~~family foster home, or residential child-caring agency who may~~
19 be employed by or do volunteer work for a person, corporation,
20 or agency which holds a license as a child-placing agency or a
21 residential child-caring agency, but the term does not include
22 those who do not work on the premises where child care is
23 furnished and either have no direct contact with a child or
24 have no contact with a child outside of the presence of the
25 child's parent or guardian. ~~For purposes of screening, the~~
26 ~~term shall include any member, over the age of 12 years, of~~
27 ~~the family of the owner or operator or any person other than a~~
28 ~~client, over the age of 12 years, residing with the owner or~~
29 ~~operator if the agency or family foster home is located in or~~
30 ~~adjacent to the home of the owner or operator or if the family~~
31 ~~member of, or person residing with, the owner or operator has~~

1 ~~any direct contact with the children. Members of the family of~~
2 ~~the owner or operator, or persons residing with the owner or~~
3 ~~operator, who are between the ages of 12 years and 18 years~~
4 ~~shall not be required to be fingerprinted, but shall be~~
5 ~~screened for delinquency records. For purposes of screening,~~
6 ~~the term "personnel" shall also include owners, operators,~~
7 ~~employees, and volunteers working in summer day camps, or~~
8 ~~summer 24-hour camps providing care for children. A volunteer~~
9 ~~who assists on an intermittent basis for less than 40 hours~~
10 ~~per month shall not be included in the term "personnel" for~~
11 ~~the purposes of screening, provided that the volunteer is~~
12 ~~under direct and constant supervision by persons who meet the~~
13 ~~personnel requirements of this section.~~

14 ~~(k) "Screening" means the act of assessing the~~
15 ~~background of personnel and includes, but is not limited to,~~
16 ~~employment history checks as provided in chapter 435, using~~
17 ~~the level 2 standards for screening set forth in that chapter.~~
18 ~~Screening for employees and volunteers in summer day camps and~~
19 ~~summer 24-hour camps and screening for all volunteers included~~
20 ~~under the definition of "personnel" shall be conducted as~~
21 ~~provided in chapter 435, using the level 1 standards set forth~~
22 ~~in that chapter.~~

23 Section 12. Section 409.177, Florida Statutes, is
24 created to read:

25 409.177 Background screening for personnel of
26 child-placing agencies and residential child-caring agencies
27 providing care for children.--

28 (1) The department must conduct criminal records
29 checks equivalent to the level 2 screening requirement of s.
30 435.04 for the following persons:

31

1 (a) The personnel of any child-caring or child-placing
2 agency.

3 (b) Any person other than a client older than 12 years
4 of age who resides with the owner or operator of a
5 child-placing agency or residential child-caring agency if the
6 agency is located in or adjacent to the home of the owner or
7 operator or if the person residing with the owner or operator
8 has any direct contact with the children.

9
10 For children older than 12 years of age who reside with the
11 owner or operator, the security background investigation shall
12 be limited to statewide criminal and juvenile records checks
13 through the Department of Law Enforcement and local criminal
14 records checks through local law enforcement agencies.

15 (2) When the department has reasonable cause to
16 believe that grounds exist for the denial of a license or
17 exclusion from employment based on the screening required by
18 this section, it shall follow the provisions of s. 435.06.

19 (3) Exemptions from disqualification may be granted,
20 at the discretion of the department, as provided in section
21 435.07.

22 Section 13. Section 409.1759, Florida Statutes, is
23 created to read:

24 409.1759 Background screening for summer day camps and
25 summer 24-hour camps.--

26 (1) Operators, owners, employees, and volunteers of
27 summer day camps and summer 24-hour camps must obtain criminal
28 records checks equivalent to the level 1 screening requirement
29 of s. 435.03.

30 (2) A volunteer who assists on an intermittent basis
31 for less than 40 hours per month is not required to be

1 screened if the volunteer is under direct and constant
2 supervision by persons who have been screened pursuant to this
3 section.

4 Section 14. Section 435.045, Florida Statutes, is
5 repealed.

6 Section 15. Section 937.021, Florida Statutes, is
7 amended to read:

8 937.021 Missing child reports.--

9 (1) Upon the filing of a police report that a child is
10 missing by the parent or guardian, the law enforcement agency
11 receiving the report ~~written notification~~ shall immediately
12 inform all on-duty law enforcement officers of the existence
13 of the missing child report, communicate the report to every
14 other law enforcement agency having jurisdiction in the
15 county, and transmit the report for inclusion within the
16 Florida Crime Information Center computer.

17 (2) A police report that a child is missing may be
18 filed with the law enforcement agency having jurisdiction in
19 the county or municipality in which the child was last seen
20 prior to the filing of the report, without regard to whether
21 the child resides in or has any significant contacts with that
22 county or municipality. The filing of such a report shall
23 impose the duties specified in subsection (1) upon that law
24 enforcement agency.

25 Section 16. This act shall take effect July 1, 2003.
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1 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
2 COMMITTEE SUBSTITUTE FOR
3 Senate Bill 1740

4 Limits the schools' access to the child abuse, neglect, and
5 abandonment records to school principals who are then
6 permitted to release information to school employees as
7 determined necessary for the effective education of the child.

8 Authorizes access to the child abuse, neglect, and abandonment
9 records for employees and volunteers of certified domestic
10 violence centers under certain circumstances.

11 Provides that the offenses of current or former foster
12 children committed prior to the age of 18 years will not
13 disqualify a relative or non-relative caregiver from being
14 considered for placement of a child.

15 Modifies the requirement that fingerprinting information be
16 provided to the FBI after placement of the child when a
17 placement is to be made under exigent circumstances by
18 specifying that the information be provided within the time
19 frame established by the federal government.

20 Lists the felony offenses that would result in a lifetime
21 disqualifier for relative caregivers, non-relative caregivers,
22 and foster parents in numerical order by statutory cite.

23 Expands the list of felony offenses that would be 5 year
24 disqualifiers for relative caregivers, non-relative
25 caregivers, and foster homes and lists these offenses in
26 numerical order by statutory cite.

27 Distinguishes between felony convictions that are mandatory
28 disqualifiers in the background screening and felony
29 convictions that may be considered.

30 Identifies the background screening requirement being applied
31 to prospective adoptive parents in private adoptions as an
32 exemption to the provisions of the adoption chapter that apply
33 to adoptions of children under ch. 39, F.S.

34 Expands the venue options that are available in determining
35 the county in which court action may be brought when seeking
36 the release of exempted and confidential ch. 39, F.S.,
37 records.

38 Conforms language in different subsections that the background
39 screening includes persons over the age of 12 years.

40 Modifies the rescreening requirement for foster home
41 relicensure to require that the annual rescreening only
42 include local criminal records check and that a rescreening of
43 statewide criminal records be conducted every 5 years.

44 Deletes the revisions to ch. 435, F.S., and deletes the newly
45 created sections for ch. 435, F.S.

46 Modifies the requirements for filing a missing child report to
47 allow for a report that is not a written notification and to

1 provide that the report be filed in the county or municipality
2 where the child was last seen, even if different from the
3 county where the child resides or has significant contacts.
4 Provides that the background screening requirements for
5 relative and non-relative placements do not apply to the
6 noncustodial parent unless the court specifically did not
7 permit the parental responsibility for the child to be shared
8 with that parent.
9 Provides that the new background screening requirements for
10 relatives and non-relatives apply only to placements made
11 after June 30, 2003.
12 Provides that, with the exception of the rescreening schedule,
13 the new background screening requirements for individuals in
14 foster homes apply to individuals seeking licensure after June
15 30, 2003. These requirements do not apply to individuals
16 currently licensed for foster care.
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