

By the Committees on Education; Children and Families; and  
Senators Atwater, Fasano and Wilson

304-2134-04

1                                   A bill to be entitled

2           An act relating to abused, neglected, and

3           abandoned children; creating s. 39.0016, F.S.,

4           relating to the education of abused, neglected,

5           and abandoned children; creating definitions;

6           providing for interpretation of the act;

7           requiring an agreement between the Department

8           of Children and Family Services and the

9           Department of Education; requiring agreements

10          between the Department of Children and Family

11          Services and district school boards or other

12          local educational entities; specifying

13          provisions of such agreements; requiring access

14          to certain information; requiring education

15          training components; amending s. 1002.22, F.S.,

16          relating to access to student records;

17          authorizing the release of records to the

18          Department of Children and Family Services or a

19          community-based care lead agency; providing an

20          effective date.

21

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

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24           Section 1. Section 39.0016, Florida Statutes, is

25 created to read:

26           39.0016 Education of abused, neglected, and abandoned

27 children.--

28           (1) As used in this section, the term:

29           (a) "Children known to the department" means children

30 who are found to be dependent or children in shelter care.

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1           (b) "Department" means the Department of Children and  
2 Family Services or a community-based care lead agency acting  
3 on behalf of the Department of Children and Family Services,  
4 as appropriate.

5           (2) The provisions of this section establish goals and  
6 not rights. This section does not require the delivery of any  
7 particular service or level of service in excess of existing  
8 appropriations. A person may not maintain a cause of action  
9 against the state or any of its subdivisions, agencies,  
10 contractors, subcontractors, or agents based upon this section  
11 becoming law or failure by the Legislature to provide adequate  
12 funding for the achievement of these goals. This section does  
13 not require the expenditure of funds to meet the goals  
14 established in this section except funds specifically  
15 appropriated for such purpose.

16           (3) The department shall enter into an agreement with  
17 the Department of Education regarding the education and  
18 related care of children known to the department. Such  
19 agreement shall be designed to provide educational access to  
20 children known to the department for the purpose of  
21 facilitating the delivery of services or programs to children  
22 known to the department. The agreement shall avoid duplication  
23 of services or programs and shall provide for combining  
24 resources to maximize the availability or delivery of services  
25 or programs.

26           (4) The department shall enter into agreements with  
27 district school boards or other local educational entities  
28 regarding education and related services for children known to  
29 the department who are of school age and children known to the  
30 department who are younger than school age but who would

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1 otherwise qualify for services from the district school board.

2 Such agreements shall include, but are not limited to:

3 (a) A requirement that the department shall:

4 1. Enroll children known to the department in school.

5 The agreement shall provide for continuing the enrollment of a  
6 child known to the department at the same school, if possible,  
7 with the goal of avoiding disruption of education.

8 2. Notify the school and school district in which a  
9 child known to the department is enrolled of the name and  
10 phone number of the child known to the department caregiver  
11 and caseworker for child safety purposes.

12 3. Establish a protocol for the department to share  
13 information about a child known to the department with the  
14 school district, consistent with the Family Educational Rights  
15 and Privacy Act, since the sharing of information will assist  
16 each agency in obtaining education and related services for  
17 the benefit of the child.

18 4. Notify the school district of the department's case  
19 planning for a child known to the department, both at the time  
20 of plan development and plan review. Within the plan  
21 development or review process, the school district may provide  
22 information regarding the child known to the department if the  
23 school district deems it desirable and appropriate.

24 (b) A requirement that the district school board  
25 shall:

26 1. Provide the department with a general listing of  
27 the services and information available from the district  
28 school board, including, but not limited to, the current  
29 Sunshine State Standards, the Surrogate Parent Training  
30 Manual, and other resources accessible through the Department

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1 of Education or local school districts to facilitate  
2 educational access for a child known to the department.

3 2. Identify all educational and other services  
4 provided by the school and school district which the school  
5 district believes are reasonably necessary to meet the  
6 educational needs of a child known to the department.

7 3. Determine whether transportation is available for a  
8 child known to the department when such transportation will  
9 avoid a change in school assignment due to a change in  
10 residential placement. Recognizing that continued enrollment  
11 in the same school throughout the time the child known to the  
12 department is in out-of-home care is preferable unless  
13 enrollment in the same school would be unsafe or otherwise  
14 impractical, the department, the district school board, and  
15 the Department of Education shall assess the availability of  
16 federal, charitable, or grant funding for such transportation.

17 4. Provide individualized student intervention or an  
18 individual educational plan when a determination has been made  
19 through legally appropriate criteria that intervention  
20 services are required. The intervention or individual  
21 educational plan must include strategies to enable the child  
22 known to the department to maximize the attainment of  
23 educational goals.

24 (c) A requirement that the department and the district  
25 school board shall cooperate in accessing the services and  
26 supports needed for a child known to the department who has or  
27 is suspected of having a disability to receive an appropriate  
28 education consistent with the Individuals with Disabilities  
29 Education Act and state implementing laws, rules, and  
30 assurances. Coordination of services for a child known to the  
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1 department who has or is suspected of having a disability may  
2 include:  
3       1. Referral for screening.  
4       2. Sharing of evaluations between the school district  
5 and the department where appropriate.  
6       3. Provision of education and related services  
7 appropriate for the needs and abilities of the child known to  
8 the department.  
9       4. Coordination of services and plans between the  
10 school and the residential setting to avoid duplication or  
11 conflicting service plans.  
12       5. Appointment of a surrogate parent, consistent with  
13 the Individuals with Disabilities Education Act, for  
14 educational purposes for a child known to the department who  
15 qualifies as soon as the child is determined to be dependent  
16 and without a parent to act for the child. The surrogate  
17 parent shall be appointed by the school district without  
18 regard to where the child known to the department is placed so  
19 that one surrogate parent can follow the education of the  
20 child known to the department during his or her entire time in  
21 state custody.  
22       6. For each child known to the department 14 years of  
23 age and older, transition planning by the department and all  
24 providers, including the department's independent living  
25 program staff, to meet the requirements of the local school  
26 district for educational purposes.  
27       (5) The department shall incorporate an education  
28 component into all training programs of the department  
29 regarding children known to the department. Such training  
30 shall be coordinated with the Department of Education and the  
31 local school districts. The department shall offer

1 opportunities for education personnel to participate in such  
2 training. Such coordination shall include, but not be limited  
3 to, notice of training sessions, opportunities to purchase  
4 training materials, proposals to avoid duplication of services  
5 by offering joint training, and incorporation of materials  
6 available from the Department of Education and local school  
7 districts into the department training when appropriate. The  
8 department training components shall include:

9 (a) Training for surrogate parents to include how an  
10 ability to learn of a child known to the department is  
11 affected by abuse, abandonment, neglect, and removal from the  
12 home.

13 (b) Training for parents in cases in which  
14 reunification is the goal, or for preadoptive parents when  
15 adoption is the goal, so that such parents learn how to access  
16 the services the child known to the department needs and the  
17 importance of their involvement in the education of the child  
18 known to the department.

19 (c) Training for caseworkers and foster parents to  
20 include information on the right of the child known to the  
21 department to an education, the role of an education in the  
22 development and adjustment of a child known to the department,  
23 the proper ways to access education and related services for  
24 the child known to the department, and the importance and  
25 strategies for parental involvement in education for the  
26 success of the child known to the department.

27 (d) Training of caseworkers regarding the services and  
28 information available through the Department of Education and  
29 local school districts, including, but not limited to, the  
30 current Sunshine State Standards, the Surrogate Parent  
31 Training Manual, and other resources accessible through the

1 Department of Education or local school districts to  
2 facilitate educational access for a child known to the  
3 department.

4 Section 2. Paragraph (d) of subsection (3) of section  
5 1002.22, Florida Statutes, is amended to read:

6 1002.22 Student records and reports; rights of parents  
7 and students; notification; penalty.--

8 (3) RIGHTS OF PARENT OR STUDENT.--The parent of any  
9 student who attends or has attended any public school, area  
10 technical center, or public postsecondary educational  
11 institution shall have the following rights with respect to  
12 any records or reports created, maintained, and used by any  
13 public educational institution in the state. However,  
14 whenever a student has attained 18 years of age, or is  
15 attending a postsecondary educational institution, the  
16 permission or consent required of, and the rights accorded to,  
17 the parents of the student shall thereafter be required of and  
18 accorded to the student only, unless the student is a  
19 dependent student of such parents as defined in 26 U.S.C. s.  
20 152 (s. 152 of the Internal Revenue Code of 1954). The State  
21 Board of Education shall adopt rules whereby parents or  
22 students may exercise these rights:

23 (d) Right of privacy.--Every student shall have a  
24 right of privacy with respect to the educational records kept  
25 on him or her. Personally identifiable records or reports of a  
26 student, and any personal information contained therein, are  
27 confidential and exempt from the provisions of s. 119.07(1).  
28 A ~~No~~ state or local educational agency, board, public school,  
29 technical center, or public postsecondary educational  
30 institution may not ~~shall~~ permit the release of such records,  
31 reports, or information without the written consent of the

1 student's parent, or of the student himself or herself if he  
2 or she is qualified as provided in this subsection, to any  
3 individual, agency, or organization. However, personally  
4 identifiable records or reports of a student may be released  
5 to the following persons or organizations without the consent  
6 of the student or the student's parent:

7 1. Officials of schools, school systems, technical  
8 centers, or public postsecondary educational institutions in  
9 which the student seeks or intends to enroll; and a copy of  
10 such records or reports shall be furnished to the parent or  
11 student upon request.

12 2. Other school officials, including teachers within  
13 the educational institution or agency, who have legitimate  
14 educational interests in the information contained in the  
15 records.

16 3. The United States Secretary of Education, the  
17 Director of the National Institute of Education, the Assistant  
18 Secretary for Education, the Comptroller General of the United  
19 States, or state or local educational authorities who are  
20 authorized to receive such information subject to the  
21 conditions set forth in applicable federal statutes and  
22 regulations of the United States Department of Education, or  
23 in applicable state statutes and rules of the State Board of  
24 Education.

25 4. Other school officials, in connection with a  
26 student's application for or receipt of financial aid.

27 5. Individuals or organizations conducting studies for  
28 or on behalf of an institution or a board of education for the  
29 purpose of developing, validating, or administering predictive  
30 tests, administering student aid programs, or improving  
31 instruction, if such studies are conducted in such a manner as

1 will not permit the personal identification of students and  
2 their parents by persons other than representatives of such  
3 organizations and if such information will be destroyed when  
4 no longer needed for the purpose of conducting such studies.

5         6. Accrediting organizations, in order to carry out  
6 their accrediting functions.

7         7. School readiness coalitions and the Florida  
8 Partnership for School Readiness in order to carry out their  
9 assigned duties.

10         8. For use as evidence in student expulsion hearings  
11 conducted by a district school board pursuant to the  
12 provisions of chapter 120.

13         9. Appropriate parties in connection with an  
14 emergency, if knowledge of the information in the student's  
15 educational records is necessary to protect the health or  
16 safety of the student or other individuals.

17         10. The Auditor General and the Office of Program  
18 Policy Analysis and Government Accountability in connection  
19 with their official functions; however, except when the  
20 collection of personally identifiable information is  
21 specifically authorized by law, any data collected by the  
22 Auditor General and the Office of Program Policy Analysis and  
23 Government Accountability is confidential and exempt from the  
24 provisions of s. 119.07(1) and shall be protected in such a  
25 way as will not permit the personal identification of students  
26 and their parents by other than the Auditor General, the  
27 Office of Program Policy Analysis and Government  
28 Accountability, and their staff, and such personally  
29 identifiable data shall be destroyed when no longer needed for  
30 the Auditor General's and the Office of Program Policy  
31 Analysis and Government Accountability's official use.

1           11.a. A court of competent jurisdiction in compliance  
2 with an order of that court or the attorney of record pursuant  
3 to a lawfully issued subpoena, upon the condition that the  
4 student and the student's parent are notified of the order or  
5 subpoena in advance of compliance therewith by the educational  
6 institution or agency.

7           b. A person or entity pursuant to a court of competent  
8 jurisdiction in compliance with an order of that court or the  
9 attorney of record pursuant to a lawfully issued subpoena,  
10 upon the condition that the student, or his or her parent if  
11 the student is either a minor and not attending a  
12 postsecondary educational institution or a dependent of such  
13 parent as defined in 26 U.S.C. s. 152 (s. 152 of the Internal  
14 Revenue Code of 1954), is notified of the order or subpoena in  
15 advance of compliance therewith by the educational institution  
16 or agency.

17           12. Credit bureaus, in connection with an agreement  
18 for financial aid that the student has executed, provided that  
19 such information may be disclosed only to the extent necessary  
20 to enforce the terms or conditions of the financial aid  
21 agreement. Credit bureaus shall not release any information  
22 obtained pursuant to this paragraph to any person.

23           13. Parties to an interagency agreement among the  
24 Department of Juvenile Justice, school and law enforcement  
25 authorities, and other signatory agencies for the purpose of  
26 reducing juvenile crime and especially motor vehicle theft by  
27 promoting cooperation and collaboration, and the sharing of  
28 appropriate information in a joint effort to improve school  
29 safety, to reduce truancy and in-school and out-of-school  
30 suspensions, and to support alternatives to in-school and  
31 out-of-school suspensions and expulsions that provide

1 structured and well-supervised educational programs  
2 supplemented by a coordinated overlay of other appropriate  
3 services designed to correct behaviors that lead to truancy,  
4 suspensions, and expulsions, and that support students in  
5 successfully completing their education. Information provided  
6 in furtherance of such interagency agreements is intended  
7 solely for use in determining the appropriate programs and  
8 services for each juvenile or the juvenile's family, or for  
9 coordinating the delivery of such programs and services, and  
10 as such is inadmissible in any court proceedings prior to a  
11 dispositional hearing unless written consent is provided by a  
12 parent or other responsible adult on behalf of the juvenile.

13 14. Consistent with the Family Educational Rights and  
14 Privacy Act, the Department of Children and Family Services or  
15 a community-based care lead agency acting on behalf of the  
16 Department of Children and Family Services, as appropriate.

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18 This paragraph does not prohibit any educational institution  
19 from publishing and releasing to the general public directory  
20 information relating to a student if the institution elects to  
21 do so. However, no educational institution shall release, to  
22 any individual, agency, or organization that is not listed in  
23 subparagraphs ~~1.-14.1.-13.~~, directory information relating to  
24 the student body in general or a portion thereof unless it is  
25 normally published for the purpose of release to the public in  
26 general. Any educational institution making directory  
27 information public shall give public notice of the categories  
28 of information that it has designated as directory information  
29 with respect to all students attending the institution and  
30 shall allow a reasonable period of time after such notice has  
31 been given for a parent or student to inform the institution

1 in writing that any or all of the information designated  
2 should not be released.

3 Section 3. This act shall take effect July 1, 2004.  
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5 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN  
6 COMMITTEE SUBSTITUTE FOR  
7 CS for Senate Bill 1232

8 Provides that the release of educational records to the  
9 Department of Children and Family Services or a  
10 community-based care lead agency acting on behalf of the  
11 Department of Children and Family Services must be consistent  
12 with the Family Educational Rights and Privacy Act.  
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