

Bill No. SB 1098

Barcode 405768

CHAMBER ACTION

Senate

House

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The Committee on Governmental Oversight and Productivity
(Lawson) recommended the following amendment:

Senate Amendment (with title amendment)

Delete everything after the enacting clause

and insert:

Section 1. Paragraph (q) is added to subsection (2) of
section 39.202, Florida Statutes, and subsections (4) and (5)
of that section are republished, to read:

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

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

(q) Staff of a child's advocacy center that is
established and operated under s. 39.3035.

(4) Notwithstanding any other provision of law, when a
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.

24
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).

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1 (5) The name of any person reporting child abuse,
2 abandonment, or neglect may not be released to any person
3 other than employees of the department responsible for child
4 protective services, the central abuse hotline, law
5 enforcement, the child protection team, or the appropriate
6 state attorney, without the written consent of the person
7 reporting. This does not prohibit the subpoenaing of a person
8 reporting child abuse, abandonment, or neglect when deemed
9 necessary by the court, the state attorney, or the department,
10 provided the fact that such person made the report is not
11 disclosed. Any person who reports a case of child abuse or
12 neglect may, at the time he or she makes the report, request
13 that the department notify him or her that a child protective
14 investigation occurred as a result of the report. Any person
15 specifically listed in s. 39.201(1) who makes a report in his
16 or her official capacity may also request a written summary of
17 the outcome of the investigation. The department shall mail
18 such a notice to the reporter within 10 days after completing
19 the child protective investigation.

20 Section 2. Subsection (4) of section 39.0132, Florida
21 Statutes, is amended to read:

22 39.0132 Oaths, records, and confidential
23 information.--

24 (4)(a)1. All information obtained pursuant to this
25 part in the discharge of official duty by any judge, employee
26 of the court, authorized agent of the department, correctional
27 probation officer, or law enforcement agent is confidential
28 and exempt from s. 119.07(1) and may not be disclosed to
29 anyone other than the authorized personnel of the court, the
30 department and its designees, correctional probation officers,
31 law enforcement agents, guardian ad litem, and others entitled

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1 under this chapter to receive that information, except upon
2 order of the court.

3 2. All information obtained under this part in the
4 discharge of official duty by any guardian ad litem is
5 confidential and exempt from s. 119.07(1) and s. 24(a), Art. I
6 of the State Constitution, and may not be disclosed to anyone
7 other than the authorized personnel of the court, the
8 department and its designees, correctional probation officers,
9 law enforcement agents, guardians ad litem, and others
10 entitled under this chapter to receive that information,
11 except upon order of the court. This subparagraph is subject
12 to the Open Government Sunset Review Act of 1995 in accordance
13 with s. 119.15, and shall stand repealed on October 2, 2010,
14 unless reviewed and saved from repeal through reenactment by
15 the Legislature.

16 (b) The department shall disclose to the school
17 superintendent the presence of any child in the care and
18 custody or under the jurisdiction or supervision of the
19 department who has a known history of criminal sexual behavior
20 with other juveniles; is an alleged juvenile sex offender, as
21 defined in s. 39.01; or has pled guilty or nolo contendere to,
22 or has been found to have committed, a violation of chapter
23 794, chapter 796, chapter 800, s. 827.071, or s. 847.0133,
24 regardless of adjudication. Any employee of a district school
25 board who knowingly and willfully discloses such information
26 to an unauthorized person commits a misdemeanor of the second
27 degree, punishable as provided in s. 775.082 or s. 775.083.

28 Section 3. The Legislature finds that it is a public
29 necessity that information obtained by a guardian ad litem in
30 discharging duties with respect to proceedings relating to
31 children should be made confidential and exempt from

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1 public-records requirements. The Legislature finds that the
 2 information obtained by a guardian ad litem in ensuring the
 3 care, safety, and protection of children is sensitive and
 4 personal to the child and his or her family and that release
 5 of this information could expose the child to harm or injure
 6 the reputation of the child or the child's family. Providing
 7 confidential and exempt status to the information obtained by
 8 a guardian ad litem will facilitate the ability of the
 9 guardian ad litem to represent the best interests of the child
 10 in legal proceedings and thereby fulfill the purpose and
 11 administration of the guardian ad litem program.

12 Section 4. Paragraph (i) of subsection (6) of section
 13 119.07, Florida Statutes, is amended to read:

14 119.07 Inspection and copying of records;
 15 photographing public records; fees; exemptions.--

16 (6)

17 (i)1. The home addresses, telephone numbers, social
 18 security numbers, and photographs of active or former law
 19 enforcement personnel, including correctional and correctional
 20 probation officers, personnel of the Department of Children
 21 and Family Services whose duties include the investigation of
 22 abuse, neglect, exploitation, fraud, theft, or other criminal
 23 activities, personnel of the Department of Health whose duties
 24 are to support the investigation of child abuse or neglect,
 25 and personnel of the Department of Revenue or local
 26 governments whose responsibilities include revenue collection
 27 and enforcement or child support enforcement; the home
 28 addresses, telephone numbers, social security numbers,
 29 photographs, and places of employment of the spouses and
 30 children of such personnel; and the names and locations of
 31 schools and day care facilities attended by the children of

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1 such personnel are exempt from the provisions of subsection
2 (1). The home addresses, telephone numbers, and photographs of
3 firefighters certified in compliance with s. 633.35; the home
4 addresses, telephone numbers, photographs, and places of
5 employment of the spouses and children of such firefighters;
6 and the names and locations of schools and day care facilities
7 attended by the children of such firefighters are exempt from
8 subsection (1). The home addresses and telephone numbers of
9 justices of the Supreme Court, district court of appeal
10 judges, circuit court judges, and county court judges; the
11 home addresses, telephone numbers, and places of employment of
12 the spouses and children of justices and judges; and the names
13 and locations of schools and day care facilities attended by
14 the children of justices and judges are exempt from the
15 provisions of subsection (1). The home addresses, telephone
16 numbers, social security numbers, and photographs of current
17 or former state attorneys, assistant state attorneys,
18 statewide prosecutors, or assistant statewide prosecutors; the
19 home addresses, telephone numbers, social security numbers,
20 photographs, and places of employment of the spouses and
21 children of current or former state attorneys, assistant state
22 attorneys, statewide prosecutors, or assistant statewide
23 prosecutors; and the names and locations of schools and day
24 care facilities attended by the children of current or former
25 state attorneys, assistant state attorneys, statewide
26 prosecutors, or assistant statewide prosecutors are exempt
27 from subsection (1) and s. 24(a), Art. I of the State
28 Constitution.

29 2. The home addresses, telephone numbers, social
30 security numbers, and photographs of current or former human
31 resource, labor relations, or employee relations directors,

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1 assistant directors, managers, or assistant managers of any
2 local government agency or water management district whose
3 duties include hiring and firing employees, labor contract
4 negotiation, administration, or other personnel-related
5 duties; the names, home addresses, telephone numbers, social
6 security numbers, photographs, and places of employment of the
7 spouses and children of such personnel; and the names and
8 locations of schools and day care facilities attended by the
9 children of such personnel are exempt from subsection (1) and
10 s. 24(a), Art. I of the State Constitution. This subparagraph
11 is subject to the Open Government Sunset Review Act of 1995 in
12 accordance with s. 119.15, and shall stand repealed on October
13 2, 2006, unless reviewed and saved from repeal through
14 reenactment by the Legislature.

15 3. The home addresses, telephone numbers, social
16 security numbers, and photographs of current or former United
17 States attorneys and assistant United States attorneys; the
18 home addresses, telephone numbers, social security numbers,
19 photographs, and places of employment of the spouses and
20 children of current or former United States attorneys and
21 assistant United States attorneys; and the names and locations
22 of schools and day care facilities attended by the children of
23 current or former United States attorneys and assistant United
24 States attorneys are exempt from subsection (1) and s. 24(a),
25 Art. I of the State Constitution. This subparagraph is subject
26 to the Open Government Sunset Review Act of 1995 in accordance
27 with s. 119.15 and shall stand repealed on October 2, 2009,
28 unless reviewed and saved from repeal through reenactment by
29 the Legislature.

30 4. The home addresses, telephone numbers, social
31 security numbers, and photographs of current or former judges

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1 of United States Courts of Appeal, United States district
 2 judges, and United States magistrate judges; the home
 3 addresses, telephone numbers, social security numbers,
 4 photographs, and places of employment of the spouses and
 5 children of current or former judges of United States Courts
 6 of Appeal, United States district judges, and United States
 7 magistrate judges; and the names and locations of schools and
 8 day care facilities attended by the children of current or
 9 former judges of United States Courts of Appeal, United States
 10 district judges, and United States magistrate judges are
 11 exempt from subsection (1) and s. 24(a), Art. I of the State
 12 Constitution. This subparagraph is subject to the Open
 13 Government Sunset Review Act of 1995 in accordance with s.
 14 119.15, and shall stand repealed on October 2, 2009, unless
 15 reviewed and saved from repeal through reenactment by the
 16 Legislature.

17 5. The home addresses, telephone numbers, social
 18 security numbers, and photographs of current or former code
 19 enforcement officers; the names, home addresses, telephone
 20 numbers, social security numbers, photographs, and places of
 21 employment of the spouses and children of such persons; and
 22 the names and locations of schools and day care facilities
 23 attended by the children of such persons are exempt from
 24 subsection (1) and s. 24(a), Art. I of the State Constitution.
 25 This subparagraph is subject to the Open Government Sunset
 26 Review Act of 1995 in accordance with s. 119.15, and shall
 27 stand repealed on October 2, 2006, unless reviewed and saved
 28 from repeal through reenactment by the Legislature.

29 6. The home addresses, telephone numbers, places of
 30 employment, and photographs of current or former guardians ad
 31 litem, as defined in s. 39.820, and the names, home addresses,

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1 telephone numbers, and places of employment of the spouses and
2 children of such persons, are exempt from subsection (1) and
3 s. 24(a), Art. I of the State Constitution. This subparagraph
4 is subject to the Open Government Sunset Review Act of 1995 in
5 accordance with s. 119.15, and shall stand repealed on October
6 2, 2010, unless reviewed and saved from repeal through
7 reenactment by the Legislature.

8 7. An agency that is the custodian of the personal
9 information specified in subparagraph 1., subparagraph 2.,
10 subparagraph 3., subparagraph 4., ~~or~~ subparagraph 5., or
11 subparagraph 6., and that is not the employer of the officer,
12 employee, justice, judge, or other person specified in
13 subparagraph 1., subparagraph 2., subparagraph 3.,
14 subparagraph 4., ~~or~~ subparagraph 5., or subparagraph 6., shall
15 maintain the exempt status of the personal information only if
16 the officer, employee, justice, judge, other person, or
17 employing agency of the designated employee submits a written
18 request for maintenance of the exemption to the custodial
19 agency.

20 Section 5. The Legislature finds that it is a public
21 necessity that home addresses, telephone numbers, places of
22 employment, and photographs of current or former guardians ad
23 litem, and the names, home addresses, telephone numbers, and
24 places of employment of the spouses and children of such
25 persons, be made exempt from public-records requirements.
26 Guardians ad litem provide a valuable service to the
27 community. They interact with victims of child abuse and
28 neglect and, at times, the perpetrators of that abuse or
29 neglect. The capacity in which they work or volunteer their
30 time does not always create good will. Different persons may
31 be disgruntled with the testimony, report, or recommendation

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1 made by guardians ad litem. The testimony of guardians ad
2 litem could create a safety risk. Thus, the guardians ad
3 litem, or the spouses and children of guardians ad litem,
4 could become a potential target for acts of revenge. If the
5 information specified in this act remains available, the
6 safety and welfare of guardians ad litem, and their spouses
7 and children, could be seriously jeopardized. Accordingly, it
8 is a public necessity that identifying and location
9 information of guardians ad litem, and their spouses and
10 children, be made exempt from public disclosure.

11 Section 6. This act shall take effect October 1, 2005.

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14 ===== T I T L E A M E N D M E N T =====

15 And the title is amended as follows:

16 Delete everything before the enacting clause

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18 and insert:

19

A bill to be entitled

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An act relating to public-records exemptions;

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amending s. 39.202, F.S.; creating an exception

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to the exemption from public-records

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requirements for all records held by the

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Department of Children and Family Services

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concerning reports of child abandonment, abuse,

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or neglect; amending s. 39.0132, F.S.; creating

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an exemption from public-records requirements

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for information obtained by a guardian ad litem

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in the discharge of his or her official duty;

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providing an exception to the exemption;

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providing for review and repeal under the Open

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1 Government Sunset Review Act; providing a
2 statement of public necessity; amending s.
3 119.07, F.S.; creating an exemption from
4 public-records requirements for certain
5 identification and location information
6 regarding a current or former guardian ad litem
7 or the spouse and children of the guardian ad
8 litem; providing for review and repeal under
9 the Open Government Sunset Review Act;
10 providing a statement of public necessity;
11 providing an effective date.

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