

By the Committee on Governmental Oversight and Productivity;
and Senators Smith and Lynn

585-2052-05

1 A bill to be entitled

2 An act relating to public-records exemptions;

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

4 to the exemption from public-records

5 requirements for all records held by the

6 Department of Children and Family Services

7 concerning reports of child abandonment, abuse,

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

9 an exemption from public-records requirements

10 for information obtained by a guardian ad litem

11 in the discharge of his or her official duty;

12 providing an exception to the exemption;

13 providing for review and repeal under the Open

14 Government Sunset Review Act; providing a

15 statement of public necessity; amending s.

16 119.07, F.S.; creating an exemption from

17 public-records requirements for certain

18 identification and location information

19 regarding a current or former guardian ad litem

20 or the spouse and children of the guardian ad

21 litem; providing for review and repeal under

22 the Open Government Sunset Review Act;

23 providing a statement of public necessity;

24 providing an effective date.

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

28 Section 1. Paragraph (q) is added to subsection (2) of

29 section 39.202, Florida Statutes, and subsections (4) and (5)

30 of that section are republished, to read:

1 39.202 Confidentiality of reports and records in cases
2 of child abuse or neglect.--

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

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

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

14 (a) The department may release the following
15 information to the public when it believes the release of the
16 information is likely to assist efforts in locating the child
17 or to promote the safety or well-being of the child:

18 1. The name of the child and the child's date of
19 birth;

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

23 3. A photograph of the child.

24 (b) With the concurrence of the law enforcement agency
25 primarily responsible for investigating the incident, the
26 department may release any additional information it believes
27 likely to assist efforts in locating the child or to promote
28 the safety or well-being of the child.

29 (c) The law enforcement agency primarily responsible
30 for investigating the incident may release any information
31 received from the department regarding the investigation, if

1 | it believes the release of the information is likely to assist
2 | efforts in locating the child or to promote the safety or
3 | well-being of the child.

4 |
5 | The good faith publication or release of this information by
6 | the department, a law enforcement agency, or any recipient of
7 | the information as specifically authorized by this subsection
8 | shall not subject the person, agency or entity releasing the
9 | information to any civil or criminal penalty. This subsection
10 | does not authorize the release of the name of the reporter,
11 | which may be released only as provided in subsection (5).

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

31 |

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

3 39.0132 Oaths, records, and confidential
4 information.--

5 (4)(a)1. All information obtained pursuant to this
6 part in the discharge of official duty by any judge, employee
7 of the court, authorized agent of the department, correctional
8 probation officer, or law enforcement agent is confidential
9 and exempt from s. 119.07(1) and may not be disclosed to
10 anyone other than the authorized personnel of the court, the
11 department and its designees, correctional probation officers,
12 law enforcement agents, guardian ad litem, and others entitled
13 under this chapter to receive that information, except upon
14 order of the court.

15 2. All information obtained under this part in the
16 discharge of official duty by any guardian ad litem is
17 confidential and exempt from s. 119.07(1) and s. 24(a), Art. I
18 of the State Constitution, and may not be disclosed to anyone
19 other than the authorized personnel of the court, the
20 department and its designees, correctional probation officers,
21 law enforcement agents, guardians ad litem, and others
22 entitled under this chapter to receive that information,
23 except upon order of the court. This subparagraph is subject
24 to the Open Government Sunset Review Act of 1995 in accordance
25 with s. 119.15, and shall stand repealed on October 2, 2010,
26 unless reviewed and saved from repeal through reenactment by
27 the Legislature.

28 (b) The department shall disclose to the school
29 superintendent the presence of any child in the care and
30 custody or under the jurisdiction or supervision of the
31 department who has a known history of criminal sexual behavior

1 with other juveniles; is an alleged juvenile sex offender, as
2 defined in s. 39.01; or has pled guilty or nolo contendere to,
3 or has been found to have committed, a violation of chapter
4 794, chapter 796, chapter 800, s. 827.071, or s. 847.0133,
5 regardless of adjudication. Any employee of a district school
6 board who knowingly and willfully discloses such information
7 to an unauthorized person commits a misdemeanor of the second
8 degree, punishable as provided in s. 775.082 or s. 775.083.

9 Section 3. The Legislature finds that it is a public
10 necessity that information obtained by a guardian ad litem in
11 discharging duties with respect to proceedings relating to
12 children should be made confidential and exempt from
13 public-records requirements. The Legislature finds that the
14 information obtained by a guardian ad litem in ensuring the
15 care, safety, and protection of children is sensitive and
16 personal to the child and his or her family and that release
17 of this information could expose the child to harm or injure
18 the reputation of the child or the child's family. Providing
19 confidential and exempt status to the information obtained by
20 a guardian ad litem will facilitate the ability of the
21 guardian ad litem to represent the best interests of the child
22 in legal proceedings and thereby fulfill the purpose and
23 administration of the guardian ad litem program.

24 Section 4. Paragraph (i) of subsection (6) of section
25 119.07, Florida Statutes, is amended to read:

26 119.07 Inspection and copying of records;
27 photographing public records; fees; exemptions.--

28 (6)

29 (i)1. The home addresses, telephone numbers, social
30 security numbers, and photographs of active or former law
31 enforcement personnel, including correctional and correctional

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

1 | photographs, and places of employment of the spouses and
2 | children of current or former state attorneys, assistant state
3 | attorneys, statewide prosecutors, or assistant statewide
4 | prosecutors; and the names and locations of schools and day
5 | care facilities attended by the children of current or former
6 | state attorneys, assistant state attorneys, statewide
7 | prosecutors, or assistant statewide prosecutors are exempt
8 | from subsection (1) and s. 24(a), Art. I of the State
9 | Constitution.

10 | 2. The home addresses, telephone numbers, social
11 | security numbers, and photographs of current or former human
12 | resource, labor relations, or employee relations directors,
13 | assistant directors, managers, or assistant managers of any
14 | local government agency or water management district whose
15 | duties include hiring and firing employees, labor contract
16 | negotiation, administration, or other personnel-related
17 | duties; the names, home addresses, telephone numbers, social
18 | security numbers, photographs, and places of employment of the
19 | spouses and children of such personnel; and the names and
20 | locations of schools and day care facilities attended by the
21 | children of such personnel are exempt from subsection (1) and
22 | s. 24(a), Art. I of the State Constitution. This subparagraph
23 | is subject to the Open Government Sunset Review Act of 1995 in
24 | accordance with s. 119.15, and shall stand repealed on October
25 | 2, 2006, unless reviewed and saved from repeal through
26 | reenactment by the Legislature.

27 | 3. The home addresses, telephone numbers, social
28 | security numbers, and photographs of current or former United
29 | States attorneys and assistant United States attorneys; the
30 | home addresses, telephone numbers, social security numbers,
31 | photographs, and places of employment of the spouses and

1 children of current or former United States attorneys and
2 assistant United States attorneys; and the names and locations
3 of schools and day care facilities attended by the children of
4 current or former United States attorneys and assistant United
5 States attorneys are exempt from subsection (1) and s. 24(a),
6 Art. I of the State Constitution. This subparagraph is subject
7 to the Open Government Sunset Review Act of 1995 in accordance
8 with s. 119.15 and shall stand repealed on October 2, 2009,
9 unless reviewed and saved from repeal through reenactment by
10 the Legislature.

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

29 5. The home addresses, telephone numbers, social
30 security numbers, and photographs of current or former code
31 enforcement officers; the names, home addresses, telephone

1 | numbers, social security numbers, photographs, and places of
2 | employment of the spouses and children of such persons; and
3 | the names and locations of schools and day care facilities
4 | attended by the children of such persons are exempt from
5 | subsection (1) and s. 24(a), Art. I of the State Constitution.
6 | This subparagraph is subject to the Open Government Sunset
7 | Review Act of 1995 in accordance with s. 119.15, and shall
8 | stand repealed on October 2, 2006, unless reviewed and saved
9 | from repeal through reenactment by the Legislature.

10 | 6. The home addresses, telephone numbers, places of
11 | employment, and photographs of current or former guardians ad
12 | litem, as defined in s. 39.820, and the names, home addresses,
13 | telephone numbers, and places of employment of the spouses and
14 | children of such persons, are exempt from subsection (1) and
15 | s. 24(a), Art. I of the State Constitution. This subparagraph
16 | is subject to the Open Government Sunset Review Act of 1995 in
17 | accordance with s. 119.15, and shall stand repealed on October
18 | 2, 2010, unless reviewed and saved from repeal through
19 | reenactment by the Legislature.

20 | 7. An agency that is the custodian of the personal
21 | information specified in subparagraph 1., subparagraph 2.,
22 | subparagraph 3., subparagraph 4., ~~or~~ subparagraph 5., or
23 | subparagraph 6., and that is not the employer of the officer,
24 | employee, justice, judge, or other person specified in
25 | subparagraph 1., subparagraph 2., subparagraph 3.,
26 | subparagraph 4., ~~or~~ subparagraph 5., or subparagraph 6., shall
27 | maintain the exempt status of the personal information only if
28 | the officer, employee, justice, judge, other person, or
29 | employing agency of the designated employee submits a written
30 | request for maintenance of the exemption to the custodial
31 | agency.

1 Section 5. The Legislature finds that it is a public
2 necessity that home addresses, telephone numbers, places of
3 employment, and photographs of current or former guardians ad
4 litem, and the names, home addresses, telephone numbers, and
5 places of employment of the spouses and children of such
6 persons, be made exempt from public-records requirements.
7 Guardians ad litem provide a valuable service to the
8 community. They interact with victims of child abuse and
9 neglect and, at times, the perpetrators of that abuse or
10 neglect. The capacity in which they work or volunteer their
11 time does not always create good will. Different persons may
12 be disgruntled with the testimony, report, or recommendation
13 made by guardians ad litem. The testimony of guardians ad
14 litem could create a safety risk. Thus, the guardians ad
15 litem, or the spouses and children of guardians ad litem,
16 could become a potential target for acts of revenge. If the
17 information specified in this act remains available, the
18 safety and welfare of guardians ad litem, and their spouses
19 and children, could be seriously jeopardized. Accordingly, it
20 is a public necessity that identifying and location
21 information of guardians ad litem, and their spouses and
22 children, be made exempt from public disclosure.

23 Section 6. This act shall take effect October 1, 2005.
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1 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
2 COMMITTEE SUBSTITUTE FOR
3 Senate Bill 1098
4 Creates an exemption for information obtained by guardians ad
5 litem under Part I of ch. 39, F.S., in the discharge of
6 official duty.
7 Makes exempt the home addresses, telephone numbers, places of
8 employment, and photographs of guardians ad litem.
9 Makes exempt names, home addresses, telephone numbers, and
10 places of employment of the spouses and children of guardian
11 ad litem.
12 Provides a statement of public necessity for each exemption.
13 Makes the exemptions subject to the Open Government Sunset
14 Review Act.
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