

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27

A bill to be entitled
 An act relating to public records exemptions; amending s.
 39.202, F.S.; creating an exception to the exemption from
 public records requirements for all records held by the
 Department of Children and Family Services concerning
 reports of child abandonment, abuse, or neglect; amending
 s. 39.0132, F.S.; creating an exemption from public
 records requirements for information obtained by a
 guardian ad litem in the discharge of his or her official
 duty; providing an exception to the exemption; providing
 for review and repeal; providing a statement of public
 necessity; amending s. 119.07, F.S.; creating an exemption
 from public records requirements for certain
 identification and location information regarding a
 current or former guardian ad litem or the spouse and
 children of the guardian ad litem; providing for review
 and repeal; providing a statement of public necessity;
 providing an effective date.

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

Section 1. Paragraph (q) is added to subsection (2) of
 section 39.202, Florida Statutes, 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

HB 1929

2005

28 released only as provided in subsection (5), shall be granted
29 only to the following persons, officials, and agencies:

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

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

36 (a) The department may release the following information
37 to the public when it believes the release of the information is
38 likely to assist efforts in locating the child or to promote the
39 safety or well-being of the child:

- 40 1. The name of the child and the child's date of birth;
- 41 2. A physical description of the child, including at a
42 minimum the height, weight, hair color, eye color, gender, and
43 any identifying physical characteristics of the child; and
- 44 3. A photograph of the child.

45 (b) With the concurrence of the law enforcement agency
46 primarily responsible for investigating the incident, the
47 department may release any additional information it believes
48 likely to assist efforts in locating the child or to promote the
49 safety or well-being of the child.

50 (c) The law enforcement agency primarily responsible for
51 investigating the incident may release any information received
52 from the department regarding the investigation, if it believes
53 the release of the information is likely to assist efforts in
54 locating the child or to promote the safety or well-being of the
55 child.

56
57 The good faith publication or release of this information by the
58 department, a law enforcement agency, or any recipient of the
59 information as specifically authorized by this subsection shall
60 not subject the person, agency or entity releasing the
61 information to any civil or criminal penalty. This subsection
62 does not authorize the release of the name of the reporter,
63 which may be released only as provided in subsection (5).

64 (5) The name of any person reporting child abuse,
65 abandonment, or neglect may not be released to any person other
66 than employees of the department responsible for child
67 protective services, the central abuse hotline, law enforcement,
68 the child protection team, or the appropriate state attorney,
69 without the written consent of the person reporting. This does
70 not prohibit the subpoenaing of a person reporting child abuse,
71 abandonment, or neglect when deemed necessary by the court, the
72 state attorney, or the department, provided the fact that such
73 person made the report is not disclosed. Any person who reports
74 a case of child abuse or neglect may, at the time he or she
75 makes the report, request that the department notify him or her
76 that a child protective investigation occurred as a result of
77 the report. Any person specifically listed in s. 39.201(1) who
78 makes a report in his or her official capacity may also request
79 a written summary of the outcome of the investigation. The
80 department shall mail such a notice to the reporter within 10
81 days after completing the child protective investigation.

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

84 39.0132 Oaths, records, and confidential information.--

85 (4)(a)1. All information obtained pursuant to this part in
 86 the discharge of official duty by any judge, employee of the
 87 court, authorized agent of the department, correctional
 88 probation officer, or law enforcement agent is confidential and
 89 exempt from s. 119.07(1) and may not be disclosed to anyone
 90 other than the authorized personnel of the court, the department
 91 and its designees, correctional probation officers, law
 92 enforcement agents, guardian ad litem, and others entitled under
 93 this chapter to receive that information, except upon order of
 94 the court.

95 2. All information obtained pursuant to this part in the
 96 discharge of official duty by any guardian ad litem is
 97 confidential and exempt from s. 119.07(1) and s. 24(a), Art. I
 98 of the State Constitution, and may not be disclosed to anyone
 99 other than the authorized personnel of the court, the department
 100 and its designees, correctional probation officers, law
 101 enforcement agents, guardians ad litem, and others entitled
 102 under this chapter to receive that information, except upon
 103 order of the court. This subparagraph is subject to the Open
 104 Government Sunset Review Act of 1995 in accordance with s.
 105 119.15, and shall stand repealed on October 2, 2010, unless
 106 reviewed and saved from repeal through reenactment by the
 107 Legislature.

108 (b) The department shall disclose to the school
 109 superintendent the presence of any child in the care and custody
 110 or under the jurisdiction or supervision of the department who
 111 has a known history of criminal sexual behavior with other

112 juveniles; is an alleged juvenile sex offender, as defined in s.
 113 39.01; or has pled guilty or nolo contendere to, or has been
 114 found to have committed, a violation of chapter 794, chapter
 115 796, chapter 800, s. 827.071, or s. 847.0133, regardless of
 116 adjudication. Any employee of a district school board who
 117 knowingly and willfully discloses such information to an
 118 unauthorized person commits a misdemeanor of the second degree,
 119 punishable as provided in s. 775.082 or s. 775.083.

120 Section 3. The Legislature finds that it is a public
 121 necessity that information obtained by a guardian ad litem in
 122 discharging duties with respect to proceedings relating to
 123 children should be made confidential and exempt from public
 124 records requirements. The Legislature finds that the information
 125 obtained by a guardian ad litem in ensuring the care, safety,
 126 and protection of children is sensitive and personal to the
 127 child and his or her family and that release of this information
 128 could expose the child to harm or injure the reputation of the
 129 child or the child's family. Providing confidential and exempt
 130 status to the information obtained by a guardian ad litem will
 131 facilitate the ability of the guardian ad litem to represent the
 132 best interests of the child in legal proceedings and thereby
 133 fulfill the purpose and administration of the guardian ad litem
 134 program.

135 Section 4. Paragraph (i) of subsection (6) of section
 136 119.07, Florida Statutes, is amended to read:

137 119.07 Inspection and copying of records; photographing
 138 public records; fees; exemptions.--

139 (6)

140 (i)1. The home addresses, telephone numbers, social
141 security numbers, and photographs of active or former law
142 enforcement personnel, including correctional and correctional
143 probation officers, personnel of the Department of Children and
144 Family Services whose duties include the investigation of abuse,
145 neglect, exploitation, fraud, theft, or other criminal
146 activities, personnel of the Department of Health whose duties
147 are to support the investigation of child abuse or neglect, and
148 personnel of the Department of Revenue or local governments
149 whose responsibilities include revenue collection and
150 enforcement or child support enforcement; the home addresses,
151 telephone numbers, social security numbers, photographs, and
152 places of employment of the spouses and children of such
153 personnel; and the names and locations of schools and day care
154 facilities attended by the children of such personnel are exempt
155 from the provisions of subsection (1). The home addresses,
156 telephone numbers, and photographs of firefighters certified in
157 compliance with s. 633.35; the home addresses, telephone
158 numbers, photographs, and places of employment of the spouses
159 and children of such firefighters; and the names and locations
160 of schools and day care facilities attended by the children of
161 such firefighters are exempt from subsection (1). The home
162 addresses and telephone numbers of justices of the Supreme
163 Court, district court of appeal judges, circuit court judges,
164 and county court judges; the home addresses, telephone numbers,
165 and places of employment of the spouses and children of justices
166 and judges; and the names and locations of schools and day care
167 facilities attended by the children of justices and judges are

168 exempt from the provisions of subsection (1). The home
 169 addresses, telephone numbers, social security numbers, and
 170 photographs of current or former state attorneys, assistant
 171 state attorneys, statewide prosecutors, or assistant statewide
 172 prosecutors; the home addresses, telephone numbers, social
 173 security numbers, photographs, and places of employment of the
 174 spouses and children of current or former state attorneys,
 175 assistant state attorneys, statewide prosecutors, or assistant
 176 statewide prosecutors; and the names and locations of schools
 177 and day care facilities attended by the children of current or
 178 former state attorneys, assistant state attorneys, statewide
 179 prosecutors, or assistant statewide prosecutors are exempt from
 180 subsection (1) and s. 24(a), Art. I of the State Constitution.

181 2. The home addresses, telephone numbers, social security
 182 numbers, and photographs of current or former human resource,
 183 labor relations, or employee relations directors, assistant
 184 directors, managers, or assistant managers of any local
 185 government agency or water management district whose duties
 186 include hiring and firing employees, labor contract negotiation,
 187 administration, or other personnel-related duties; the names,
 188 home addresses, telephone numbers, social security numbers,
 189 photographs, and places of employment of the spouses and
 190 children of such personnel; and the names and locations of
 191 schools and day care facilities attended by the children of such
 192 personnel are exempt from subsection (1) and s. 24(a), Art. I of
 193 the State Constitution. This subparagraph is subject to the Open
 194 Government Sunset Review Act of 1995 in accordance with s.
 195 119.15, and shall stand repealed on October 2, 2006, unless

196 reviewed and saved from repeal through reenactment by the
 197 Legislature.

198 3. The home addresses, telephone numbers, social security
 199 numbers, and photographs of current or former United States
 200 attorneys and assistant United States attorneys; the home
 201 addresses, telephone numbers, social security numbers,
 202 photographs, and places of employment of the spouses and
 203 children of current or former United States attorneys and
 204 assistant United States attorneys; and the names and locations
 205 of schools and day care facilities attended by the children of
 206 current or former United States attorneys and assistant United
 207 States attorneys are exempt from subsection (1) and s. 24(a),
 208 Art. I of the State Constitution. This subparagraph is subject
 209 to the Open Government Sunset Review Act of 1995 in accordance
 210 with s. 119.15 and shall stand repealed on October 2, 2009,
 211 unless reviewed and saved from repeal through reenactment by the
 212 Legislature.

213 4. The home addresses, telephone numbers, social security
 214 numbers, and photographs of current or former judges of United
 215 States Courts of Appeal, United States district judges, and
 216 United States magistrate judges; the home addresses, telephone
 217 numbers, social security numbers, photographs, and places of
 218 employment of the spouses and children of current or former
 219 judges of United States Courts of Appeal, United States district
 220 judges, and United States magistrate judges; and the names and
 221 locations of schools and day care facilities attended by the
 222 children of current or former judges of United States Courts of
 223 Appeal, United States district judges, and United States

224 magistrate judges are exempt from subsection (1) and s. 24(a),
 225 Art. I of the State Constitution. This subparagraph is subject
 226 to the Open Government Sunset Review Act of 1995 in accordance
 227 with s. 119.15, and shall stand repealed on October 2, 2009,
 228 unless reviewed and saved from repeal through reenactment by the
 229 Legislature.

230 5. The home addresses, telephone numbers, social security
 231 numbers, and photographs of current or former code enforcement
 232 officers; the names, home addresses, telephone numbers, social
 233 security numbers, photographs, and places of employment of the
 234 spouses and children of such persons; and the names and
 235 locations of schools and day care facilities attended by the
 236 children of such persons are exempt from subsection (1) and s.
 237 24(a), Art. I of the State Constitution. This subparagraph is
 238 subject to the Open Government Sunset Review Act of 1995 in
 239 accordance with s. 119.15, and shall stand repealed on October
 240 2, 2006, unless reviewed and saved from repeal through
 241 reenactment by the Legislature.

242 6. The home addresses, telephone numbers, places of
 243 employment, and photographs of current or former guardians ad
 244 litem, as defined in s. 39.820, and the names, home addresses,
 245 telephone numbers, and places of employment of the spouses and
 246 children of such persons, are exempt from subsection (1) and s.
 247 24(a), Art. I of the State Constitution. This subparagraph is
 248 subject to the Open Government Sunset Review Act of 1995 in
 249 accordance with s. 119.15, and shall stand repealed on October
 250 2, 2010, unless reviewed and saved from repeal through
 251 reenactment by the Legislature.

252 7. An agency that is the custodian of the personal
 253 information specified in subparagraph 1., subparagraph 2.,
 254 subparagraph 3., subparagraph 4., ~~or~~ subparagraph 5., or
 255 subparagraph 6., and that is not the employer of the officer,
 256 employee, justice, judge, or other person specified in
 257 subparagraph 1., subparagraph 2., subparagraph 3., subparagraph
 258 4., ~~or~~ subparagraph 5., or subparagraph 6., shall maintain the
 259 exempt status of the personal information only if the officer,
 260 employee, justice, judge, other person, or employing agency of
 261 the designated employee submits a written request for
 262 maintenance of the exemption to the custodial agency.

263 Section 5. The Legislature finds that it is a public
 264 necessity that home addresses, telephone numbers, places of
 265 employment, and photographs of current or former guardians ad
 266 litem, and the names, home addresses, telephone numbers, and
 267 places of employment of the spouses and children of such
 268 persons, be made exempt from public records requirements.
 269 Guardians ad litem provide a valuable service to the community.
 270 They interact with victims of child abuse and neglect and, at
 271 times, the perpetrators of that abuse or neglect. The capacity
 272 in which they work or volunteer their time does not always
 273 create good will. Different persons may be disgruntled with the
 274 testimony, report, or recommendation made by guardians ad litem.
 275 The testimony of guardians ad litem could create a safety risk.
 276 Thus, the guardians ad litem, or the spouses and children of
 277 guardians ad litem, could become a potential target for acts of
 278 revenge. If the information specified in this act remains
 279 available, the safety and welfare of guardians ad litem, and

HB 1929

2005

280 their spouses and children, could be seriously jeopardized.
281 Accordingly, it is a public necessity that identifying and
282 location information of guardians ad litem, and their spouses
283 and children, be made exempt from public disclosure.

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