

CHAMBER ACTION

1 The Justice Council recommends the following:

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3 **Council/Committee Substitute**

4 Remove the entire bill and insert:

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6 A bill to be entitled  
7 An act relating to public records exemptions; amending s.  
8 39.202, F.S.; creating an exception to the exemption from  
9 public records requirements for all records held by the  
10 Department of Children and Family Services concerning  
11 reports of child abandonment, abuse, or neglect; amending  
12 s. 39.0132, F.S.; creating an exemption from public  
13 records requirements for information obtained by a  
14 guardian ad litem in the discharge of his or her official  
15 duty; providing an exception to the exemption; providing  
16 for review and repeal; providing a statement of public  
17 necessity; amending s. 119.07, F.S.; creating an exemption  
18 from public records requirements for certain  
19 identification and location information regarding a  
20 current or former guardian ad litem or the spouse and  
21 children of the guardian ad litem; providing for review  
22 and repeal; providing a statement of public necessity;  
23 providing an effective date.

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

(q) The executive director or equivalent, and his or her designees, of a children'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 its contracted service providers is determined to be missing, the following shall apply:

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

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

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51 (b) With the concurrence of the law enforcement agency  
 52 primarily responsible for investigating the incident, the  
 53 department may release any additional information it believes  
 54 likely to assist efforts in locating the child or to promote the  
 55 safety or well-being of the child.

56 (c) The law enforcement agency primarily responsible for  
 57 investigating the incident may release any information received  
 58 from the department regarding the investigation, if it believes  
 59 the release of the information is likely to assist efforts in  
 60 locating the child or to promote the safety or well-being of the  
 61 child.

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

70 (5) The name of any person reporting child abuse,  
 71 abandonment, or neglect may not be released to any person other  
 72 than employees of the department responsible for child  
 73 protective services, the central abuse hotline, law enforcement,  
 74 the child protection team, or the appropriate state attorney,  
 75 without the written consent of the person reporting. This does  
 76 not prohibit the subpoenaing of a person reporting child abuse,  
 77 abandonment, or neglect when deemed necessary by the court, the  
 78 state attorney, or the department, provided the fact that such

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79 | person made the report is not disclosed. Any person who reports  
 80 | a case of child abuse or neglect may, at the time he or she  
 81 | makes the report, request that the department notify him or her  
 82 | that a child protective investigation occurred as a result of  
 83 | the report. Any person specifically listed in s. 39.201(1) who  
 84 | makes a report in his or her official capacity may also request  
 85 | a written summary of the outcome of the investigation. The  
 86 | department shall mail such a notice to the reporter within 10  
 87 | days after completing the child protective investigation.

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

90 | 39.0132 Oaths, records, and confidential information.--

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

101 | 2. All information obtained pursuant to this part in the  
 102 | discharge of official duty by any guardian ad litem is  
 103 | confidential and exempt from s. 119.07(1) and s. 24(a), Art. I  
 104 | of the State Constitution, and may not be disclosed to anyone  
 105 | other than the authorized personnel of the court, the department  
 106 | and its designees, correctional probation officers, law

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107 enforcement agents, guardians ad litem, and others entitled  
 108 under this chapter to receive that information, except upon  
 109 order of the court. This subparagraph is subject to the Open  
 110 Government Sunset Review Act of 1995 in accordance with s.  
 111 119.15, and shall stand repealed on October 2, 2010, unless  
 112 reviewed and saved from repeal through reenactment by the  
 113 Legislature.

114 (b) The department shall disclose to the school  
 115 superintendent the presence of any child in the care and custody  
 116 or under the jurisdiction or supervision of the department who  
 117 has a known history of criminal sexual behavior with other  
 118 juveniles; is an alleged juvenile sex offender, as defined in s.  
 119 39.01; or has pled guilty or nolo contendere to, or has been  
 120 found to have committed, a violation of chapter 794, chapter  
 121 796, chapter 800, s. 827.071, or s. 847.0133, regardless of  
 122 adjudication. Any employee of a district school board who  
 123 knowingly and willfully discloses such information to an  
 124 unauthorized person commits a misdemeanor of the second degree,  
 125 punishable as provided in s. 775.082 or s. 775.083.

126 Section 3. The Legislature finds that it is a public  
 127 necessity that information obtained by a guardian ad litem in  
 128 discharging duties with respect to proceedings relating to  
 129 children should be made confidential and exempt from public  
 130 records requirements. The Legislature finds that the information  
 131 obtained by a guardian ad litem in ensuring the care, safety,  
 132 and protection of children is sensitive and personal to the  
 133 child and his or her family and that release of this information  
 134 could expose the child to harm or injure the reputation of the

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135 child or the child's family. Providing confidential and exempt  
 136 status to the information obtained by a guardian ad litem will  
 137 facilitate the ability of the guardian ad litem to represent the  
 138 best interests of the child in legal proceedings and thereby  
 139 fulfill the purpose and administration of the guardian ad litem  
 140 program.

141 Section 4. Paragraph (i) of subsection (6) of section  
 142 119.07, Florida Statutes, is amended to read:

143 119.07 Inspection and copying of records; photographing  
 144 public records; fees; exemptions.--

145 (6)

146 (i)1. The home addresses, telephone numbers, social  
 147 security numbers, and photographs of active or former law  
 148 enforcement personnel, including correctional and correctional  
 149 probation officers, personnel of the Department of Children and  
 150 Family Services whose duties include the investigation of abuse,  
 151 neglect, exploitation, fraud, theft, or other criminal  
 152 activities, personnel of the Department of Health whose duties  
 153 are to support the investigation of child abuse or neglect, and  
 154 personnel of the Department of Revenue or local governments  
 155 whose responsibilities include revenue collection and  
 156 enforcement or child support enforcement; the home addresses,  
 157 telephone numbers, social security numbers, photographs, and  
 158 places of employment of the spouses and children of such  
 159 personnel; and the names and locations of schools and day care  
 160 facilities attended by the children of such personnel are exempt  
 161 from the provisions of subsection (1). The home addresses,  
 162 telephone numbers, and photographs of firefighters certified in

163 | compliance with s. 633.35; the home addresses, telephone  
 164 | numbers, photographs, and places of employment of the spouses  
 165 | and children of such firefighters; and the names and locations  
 166 | of schools and day care facilities attended by the children of  
 167 | such firefighters are exempt from subsection (1). The home  
 168 | addresses and telephone numbers of justices of the Supreme  
 169 | Court, district court of appeal judges, circuit court judges,  
 170 | and county court judges; the home addresses, telephone numbers,  
 171 | and places of employment of the spouses and children of justices  
 172 | and judges; and the names and locations of schools and day care  
 173 | facilities attended by the children of justices and judges are  
 174 | exempt from the provisions of subsection (1). The home  
 175 | addresses, telephone numbers, social security numbers, and  
 176 | photographs of current or former state attorneys, assistant  
 177 | state attorneys, statewide prosecutors, or assistant statewide  
 178 | prosecutors; the home addresses, telephone numbers, social  
 179 | security numbers, photographs, and places of employment of the  
 180 | spouses and children of current or former state attorneys,  
 181 | assistant state attorneys, statewide prosecutors, or assistant  
 182 | statewide prosecutors; and the names and locations of schools  
 183 | and day care facilities attended by the children of current or  
 184 | former state attorneys, assistant state attorneys, statewide  
 185 | prosecutors, or assistant statewide prosecutors are exempt from  
 186 | subsection (1) and s. 24(a), Art. I of the State Constitution.

187 |         2. The home addresses, telephone numbers, social security  
 188 | numbers, and photographs of current or former human resource,  
 189 | labor relations, or employee relations directors, assistant  
 190 | directors, managers, or assistant managers of any local

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191 government agency or water management district whose duties  
 192 include hiring and firing employees, labor contract negotiation,  
 193 administration, or other personnel-related duties; the names,  
 194 home addresses, telephone numbers, social security numbers,  
 195 photographs, and places of employment of the spouses and  
 196 children of such personnel; and the names and locations of  
 197 schools and day care facilities attended by the children of such  
 198 personnel are exempt from subsection (1) and s. 24(a), Art. I of  
 199 the State Constitution. This subparagraph is subject to the Open  
 200 Government Sunset Review Act of 1995 in accordance with s.  
 201 119.15, and shall stand repealed on October 2, 2006, unless  
 202 reviewed and saved from repeal through reenactment by the  
 203 Legislature.

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



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219 4. The home addresses, telephone numbers, social security  
220 numbers, and photographs of current or former judges of United  
221 States Courts of Appeal, United States district judges, and  
222 United States magistrate judges; the home addresses, telephone  
223 numbers, social security numbers, photographs, and places of  
224 employment of the spouses and children of current or former  
225 judges of United States Courts of Appeal, United States district  
226 judges, and United States magistrate judges; and the names and  
227 locations of schools and day care facilities attended by the  
228 children of current or former judges of United States Courts of  
229 Appeal, United States district judges, and United States  
230 magistrate judges are exempt from subsection (1) and s. 24(a),  
231 Art. I of the State Constitution. This subparagraph is subject  
232 to the Open Government Sunset Review Act of 1995 in accordance  
233 with s. 119.15, and shall stand repealed on October 2, 2009,  
234 unless reviewed and saved from repeal through reenactment by the  
235 Legislature.

236 5. The home addresses, telephone numbers, social security  
237 numbers, and photographs of current or former code enforcement  
238 officers; the names, home addresses, telephone numbers, social  
239 security numbers, photographs, and places of employment of the  
240 spouses and children of such persons; and the names and  
241 locations of schools and day care facilities attended by the  
242 children of such persons are exempt from subsection (1) and s.  
243 24(a), Art. I of the State Constitution. This subparagraph is  
244 subject to the Open Government Sunset Review Act of 1995 in  
245 accordance with s. 119.15, and shall stand repealed on October

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246 2, 2006, unless reviewed and saved from repeal through  
247 reenactment by the Legislature.

248 6. The home addresses, telephone numbers, places of  
249 employment, and photographs of current or former guardians ad  
250 litem, as defined in s. 39.820, and the names, home addresses,  
251 telephone numbers, and places of employment of the spouses and  
252 children of such persons, are exempt from subsection (1) and s.  
253 24(a), Art. I of the State Constitution. This subparagraph is  
254 subject to the Open Government Sunset Review Act of 1995 in  
255 accordance with s. 119.15, and shall stand repealed on October  
256 2, 2010, unless reviewed and saved from repeal through  
257 reenactment by the Legislature.

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

269 Section 5. The Legislature finds that it is a public  
270 necessity that home addresses, telephone numbers, places of  
271 employment, and photographs of current or former guardians ad  
272 litem, and the names, home addresses, telephone numbers, and  
273 places of employment of the spouses and children of such

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274 persons, be made exempt from public records requirements.  
275 Guardians ad litem provide a valuable service to the community.  
276 They interact with victims of child abuse and neglect and, at  
277 times, the perpetrators of that abuse or neglect. The capacity  
278 in which they work or volunteer their time does not always  
279 create good will. Different persons may be disgruntled with the  
280 testimony, report, or recommendation made by guardians ad litem.  
281 The testimony of guardians ad litem could create a safety risk.  
282 Thus, the guardians ad litem, or the spouses and children of  
283 guardians ad litem, could become a potential target for acts of  
284 revenge. If the information specified in this act remains  
285 available, the safety and welfare of guardians ad litem, and  
286 their spouses and children, could be seriously jeopardized.  
287 Accordingly, it is a public necessity that identifying and  
288 location information of guardians ad litem, and their spouses  
289 and children, be made exempt from public disclosure.

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