



534864

CHAMBER ACTION

<u>Senate</u>	.	<u>House</u>
Comm: RCS	.	
4/8/2008	.	
	.	
	.	

---

---

1 The Committee on Judiciary (Gaetz) recommended the following  
2 **amendment:**

3  
4 **Senate Amendment**

5 Delete line(s) 212-249  
6 and insert:

7 (4) Notwithstanding subsections (1) and (2), the secretary  
8 may make public records of the department which pertain to an  
9 investigation of alleged abuse, abandonment, or neglect of a  
10 child which resulted in serious mental, emotional, or physical  
11 injury to the child, or any information included in such records,  
12 if the secretary determines that the release of the records is in  
13 the public interest.

14 (a) In making a determination of the public interest, the  
15 secretary shall balance the best interests of the child who is  
16 the focus of the investigation and the interest of the child's  
17 siblings, together with the privacy rights of other persons



534864

18 identified in the reports, against the public interest. The  
19 public interest in access to such records is reflected in s.  
20 119.01(1) and includes the need for the public to know and  
21 adequately evaluate the actions of the department and the court  
22 system in providing children with the protections enumerated in  
23 s. 39.001. However, this subsection does not contravene s.  
24 39.202, which protects the name of any person reporting the  
25 abuse, abandonment, or neglect of a child.

26 (b) Before the records are made public, the secretary must  
27 state in writing and with specificity the basis for the  
28 determination of public interest.

29 (c) If the secretary determines that release of the records  
30 is in the public interest, the department shall redact the name  
31 of, and any other identifying information with respect to, any  
32 person identified in the report of abuse, abandonment, or neglect  
33 until the court finds that there is probable cause to believe the  
34 person identified committed an act of alleged abuse, abandonment,  
35 or neglect.

36 (d) Before releasing the records, the department shall make  
37 a good faith effort to notify the child, the child's caregiver,  
38 the child's attorney, the guardian ad litem assigned to the case,  
39 any person named as an alleged perpetrator in the report of  
40 abuse, abandonment, or neglect, and any law enforcement agency  
41 actively involved in investigating the alleged abuse,  
42 abandonment, or neglect. Such notification must take place at  
43 least 3 business days before the release of the records, by hand  
44 or via overnight delivery service, with evidence of delivery.

45 (e) After receiving notice, the child, the child's  
46 caregiver, the child's attorney, the guardian ad litem assigned  
47 to the case, any person named as an alleged perpetrator in the



534864

48 report, and any law enforcement agency actively investigating an  
49 allegation may petition a circuit court for an order preventing  
50 the department from releasing the records.

51 (f) The circuit court may order the department not to  
52 release the records only after finding that the best interests of  
53 the petitioner outweigh the public interest. The public interest  
54 in access to such records is reflected in s. 119.01(1), and  
55 includes the need for the public to know and adequately evaluate  
56 the actions of the department and the court system in providing  
57 children with the protections enumerated in s. 39.001.