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CHAMBER ACTION

<u>Senate</u>	.	<u>House</u>
Comm: RCS	.	
4/1/2008	.	
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1 The Committee on Children, Families, and Elder Affairs  
2 (Villalobos) recommended the following **amendment**:

**Senate Amendment (with title amendment)**

6 Delete everything after the enacting clause  
7 and insert:

8 Section 1. Section 39.00145, Florida Statutes, is created  
9 to read:

10 39.00145 Records concerning children.--

11 (1) The case file of every child under the supervision of  
12 or in the custody of the department, the department's authorized  
13 agents, or contract providers for the department, including  
14 community-based care lead agencies and their subcontracted  
15 providers, must be maintained in a complete and accurate manner,  
16 including, but not limited to, the child's case plan required by  
17 part VIII of this chapter, and the full name and street address

Bill No. SB 2762



842536

18 of any and all shelters, foster parents, group homes, treatment  
19 facilities, or locations where the child is placed. The child  
20 shall be provided with a complete and accurate copy of his or her  
21 entire case file, at no cost, upon the request of the child or  
22 the child's caregiver, guardian ad litem, or attorney on behalf  
23 of the child.

24 (2) Notwithstanding any other provision in this chapter,  
25 the records in the case file shall be made available for review  
26 upon request of the child or the child's caregiver, guardian ad  
27 litem, or attorney, at no cost. A request by the child's attorney  
28 or guardian ad litem must be submitted in writing.

29 (a) The release of records in the case file to the child's  
30 caregiver or guardian ad litem does not waive the confidential  
31 status of the information contained in the records.

32 (b) If a child, or the child's caregiver, attorney, or  
33 guardian ad litem, requests access to the child's case file, any  
34 person who fails to provide records in the case file under  
35 assertion of a claim of an exemption from the public-records  
36 requirements of chapter 119, or who fails to provide access  
37 within a reasonable time, is subject to sanctions and penalties  
38 under s. 119.10.

39 (3) If a court determines that sharing information in the  
40 child's case file is necessary to ensure access to appropriate  
41 services or for the safety of the child, the court may approve  
42 the release of confidential records or information contained in  
43 them. Information so released retains its confidential or exempt  
44 status. For purposes of the Family Educational Rights and Privacy  
45 Act, the disclosure of information in health and safety  
46 emergencies applies to a child placed in shelter care or found to  
47 be dependent under this chapter.



842536

48       (4) Notwithstanding any other provision of law, all state  
49 and local agencies and programs that provide services to  
50 children, or are responsible for a child's safety, including the  
51 Department of Juvenile Justice, the Department of Health, the  
52 Agency for Health Care Administration, the Agency for Persons  
53 with Disabilities, the Department of Education, individual school  
54 districts, the Statewide Guardian Ad Litem program, and any  
55 contract provider of such agencies, may share with each other  
56 confidential records or information that is confidential and  
57 exempt from disclosure under chapter 119 if the records or  
58 information are reasonably necessary to assure access to  
59 appropriate services or for the safety of the child. Confidential  
60 or exempt information shared among agencies and agency  
61 contractors, as agents for the state, remains confidential or  
62 exempt as provided by law. Any records or information otherwise  
63 made confidential by federal law may not be released under this  
64 section. This subsection does not apply to information concerning  
65 clients and records of certified domestic violence centers which  
66 are confidential under s. 39.908 and privileged under s. 90.5036.

67       Section 2. Subsection (1) and paragraph (a) of subsection  
68 (2) of section 39.202, Florida Statutes, are amended, paragraph  
69 (r) is added to subsection (2) of that section, and subsection  
70 (9) is added to that section, to read:

71       39.202 Confidentiality of reports and records in cases of  
72 child abuse or neglect.--

73       (1) In order to protect the rights of the child and the  
74 child's parents or other persons responsible for the child's  
75 welfare, all records held by the department concerning reports of  
76 child abandonment, abuse, or neglect, including reports made to  
77 the central abuse hotline and all records generated as a result



842536

78 of such reports, shall be confidential and exempt from the  
79 provisions of s. 119.07(1) and shall not be disclosed except as  
80 specifically authorized by this chapter. Such exemption from s.  
81 119.07(1) applies to information in the possession of those  
82 entities granted access as set forth in this section. As provided  
83 in s. 39.00145, any entity granted access to records under this  
84 section shall grant access to any other entity or individual  
85 entitled to access under this section.

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

90 (a) Employees, authorized agents, or contract providers of  
91 the department, including community-based care lead agencies and  
92 their subcontracted providers, the Department of Health, the  
93 Agency for Persons with Disabilities, or county agencies  
94 responsible for carrying out:

- 95 1. Child or adult protective investigations;
- 96 2. Ongoing child or adult protective services;
- 97 3. Early intervention and prevention services;
- 98 4. Healthy Start services;
- 99 5. Licensure or approval of adoptive homes, foster homes,  
100 child care facilities, facilities licensed under chapter 393, or  
101 family day care homes or informal child care providers who  
102 receive subsidized child care funding, or other homes used to  
103 provide for the care and welfare of children; or
- 104 6. Services for victims of domestic violence ~~when~~ provided  
105 by certified domestic violence centers working at the  
106 department's request as case consultants or with shared clients.  
107

Bill No. SB 2762



842536

108 Also, employees or agents of the Department of Juvenile Justice  
109 responsible for the provision of services to children, pursuant  
110 to chapters 984 and 985.

111 (r) Persons with whom placement of a child is being  
112 considered or has been granted including, but not limited to,  
113 foster parents, preadoptive and adoptive parents, or an adoptive  
114 entity acting on their behalf.

115 (9) Any individual, agency, or other entity entitled to  
116 access records under this section may petition a circuit court,  
117 in accordance with s. 119.11, to enforce the provisions of this  
118 section.

119 Section 3. Section 39.2021, Florida Statutes, is amended to  
120 read:

121 39.2021 Release of confidential information.--

122 (1) Any person or organization, including the department ~~of~~  
123 ~~Children and Family Services~~, may petition the court for an order  
124 making public the records of the department ~~of Children and~~  
125 ~~Family Services~~ which pertain to an investigation ~~investigations~~  
126 of alleged abuse, abandonment, or neglect of a child. The court  
127 shall determine whether there is good cause ~~exists~~ for public  
128 access to the records sought or a portion thereof.

129 (a) In making a ~~this~~ determination of good cause, the court  
130 shall balance the best interests of the child who is the focus of  
131 the investigation and the interest of the ~~that~~ child's siblings,  
132 together with the privacy rights of other persons identified in  
133 the reports, against the public interest. The public interest in  
134 access to such records is reflected in s. 119.01(1), and includes  
135 the need for the public ~~citizens~~ to know of and adequately  
136 evaluate the actions of the department ~~of Children and Family~~  
137 ~~Services~~ and the court system in providing children ~~of this state~~



842536

138 with the protections enumerated in s. 39.001. However, this  
139 subsection does not contravene s. 39.202, which protects the name  
140 of any person reporting the abuse, abandonment, or neglect of a  
141 child.

142 (2) In cases involving serious bodily injury to a child,  
143 the department ~~of Children and Family Services~~ may petition the  
144 court for an order for the immediate public release of records of  
145 the department which pertain to the protective investigation. The  
146 petition must be personally served upon the child, the child's  
147 parent or guardian, and any person named as an alleged  
148 perpetrator in the report of abuse, abandonment, or neglect. The  
149 court must determine whether good cause exists for the public  
150 release of the records sought no later than 24 hours, excluding  
151 Saturdays, Sundays, and legal holidays, after the date the  
152 department filed the petition with the court. If the court does  
153 not grant or deny the petition within the 24-hour time period,  
154 the department may release to the public summary information  
155 including:

156 (a) A confirmation that an investigation has been conducted  
157 concerning the alleged victim.

158 (b) The dates and brief description of procedural  
159 activities undertaken during the department's investigation.

160 (c) The date of each judicial proceeding, a summary of each  
161 participant's recommendations made at the judicial proceeding,  
162 and the ruling of the court.

163  
164 The summary information shall not include the name of, or other  
165 identifying information with respect to, any person identified in  
166 any investigation. In making a determination to release  
167 confidential information, the court shall balance the best



842536

168 interests of the child who is the focus of the investigation and  
169 the interests of that child's siblings, together with the privacy  
170 rights of other persons identified in the reports against the  
171 public interest for access to public records. However, this  
172 subsection does not contravene s. 39.202, which protects the name  
173 of any person reporting abuse, abandonment, or neglect of a  
174 child.

175 (3) ~~If when~~ the court determines that there is good cause  
176 for public access ~~exists~~, the court shall direct ~~that~~ the  
177 department to redact the name of, and other identifying  
178 information with respect to, any person identified in the any  
179 protective investigation report until ~~such time as~~ the court  
180 finds that there is probable cause to believe that the person  
181 identified committed an act of alleged abuse, abandonment, or  
182 neglect.

183 (4) Notwithstanding subsections (1) and (2), the department  
184 may make public the records of the department, or any information  
185 included in such records, which pertains to investigations of  
186 abuse, abandonment, or neglect of a child which resulted in  
187 serious mental, emotional, or physical injury to the child, if  
188 the secretary determines that release of the records is in the  
189 public interest and that the public interest outweighs any  
190 privacy interests contained in the records. The public interest  
191 in access to such records is reflected in s. 119.01(1), and  
192 includes the need for the public to know of and adequately  
193 evaluate the actions of the department and the court system in  
194 providing children with the protections enumerated in s. 39.001.  
195 However, this subsection does not contravene s. 39.202, which  
196 protects the name of any person reporting the abuse, abandonment,  
197 or neglect of a child.

Bill No. SB 2762



842536

198       (a) Before releasing the records, the department shall  
199 attempt to notify the child, the child's caregiver, the child's  
200 attorney, the guardian ad litem assigned to the case, any person  
201 named as an alleged perpetrator in the report of abuse,  
202 abandonment, or neglect, and any law enforcement agency actively  
203 involved in investigating the alleged abuse, abandonment, or  
204 neglect. Such notification must take place at least 3 business  
205 days before the release of the records, by hand or via overnight  
206 delivery service, with evidence of delivery.

207       (b) After receiving notice, the child, the child's  
208 caregiver, the child's attorney, the guardian ad litem assigned  
209 to the case, any person named as an alleged perpetrator in the  
210 report, and any law enforcement agency actively investigating an  
211 allegation may petition a circuit court for an order preventing  
212 the department from releasing the records. If notified of a  
213 petition filed under this paragraph, the department may not  
214 release the records without a court order.

215       (c) The circuit court may order the department not to  
216 release the records only after finding that the best interests of  
217 the petitioner outweigh the public interest. Any information  
218 otherwise made confidential or exempt by law, including the name  
219 of the person reporting the abuse, abandonment, or neglect, may  
220 not be released pursuant to this subsection.

221       Section 4. Section 63.037, Florida Statutes, is amended to  
222 read:

223       63.037 Proceedings applicable to cases resulting from a  
224 termination of parental rights under chapter 39.--A case in which  
225 a minor becomes available for adoption after the parental rights  
226 of each parent have been terminated by a judgment entered  
227 pursuant to chapter 39 shall be governed by s. 39.812 and this



Bill No. SB 2762



842536

228 chapter. Adoption proceedings initiated under chapter 39 are  
229 exempt from the following provisions of this chapter: disclosure  
230 requirements for the adoption entity provided in s. 63.085(1) ~~s.~~  
231 ~~63.085~~; general provisions governing termination of parental  
232 rights pending adoption provided in s. 63.087; notice and service  
233 provisions governing termination of parental rights pending  
234 adoption provided in s. 63.088; and procedures for terminating  
235 parental rights pending adoption provided in s. 63.089.

236 Section 5. Section 63.085, Florida Statutes, is amended to  
237 read:

238 63.085 Disclosure by adoption entity.--

239 (1) DISCLOSURE REQUIRED TO PARENTS AND PROSPECTIVE ADOPTIVE  
240 PARENTS.--Within ~~Not later than~~ 14 days after a person seeking to  
241 adopt a minor or a person seeking to place a minor for adoption  
242 contacts an adoption entity in person or provides the adoption  
243 entity with a mailing address, the entity must provide a written  
244 disclosure statement to that person if the entity agrees or  
245 continues to work with the ~~such~~ person. The ~~If an~~ adoption entity  
246 shall also provide the written disclosure to the parent ~~is~~  
247 ~~assisting in the effort to terminate the parental rights of a~~  
248 ~~parent~~ who did not initiate ~~the~~ contact with the adoption entity,  
249 ~~the written disclosure must be provided~~ within 14 days after that  
250 parent is identified and located. For purposes of providing the  
251 written disclosure, a person is considered to be seeking to place  
252 a minor for adoption if ~~when~~ that person has sought information  
253 or advice from the adoption entity regarding the option of  
254 adoptive placement. The written disclosure statement must be in  
255 substantially the following form:

256  
257 ADOPTION DISCLOSURE

Bill No. SB 2762



842536

258  
259 THE STATE OF FLORIDA REQUIRES THAT THIS FORM BE PROVIDED TO ALL  
260 PERSONS CONSIDERING ADOPTING A MINOR OR SEEKING TO PLACE A MINOR  
261 FOR ADOPTION, TO ADVISE THEM OF THE FOLLOWING FACTS REGARDING  
262 ADOPTION UNDER FLORIDA LAW:  
263

264 1. The name, address, and telephone number of the adoption  
265 entity providing this disclosure is:

266 Name:

267 Address:

268 Telephone Number:  
269

270 2. The adoption entity does not provide legal  
271 representation or advice to ~~birth~~ parents or anyone signing a  
272 consent for adoption or affidavit of nonpaternity, and ~~birth~~  
273 parents have the right to consult with an attorney of their own  
274 choosing to advise them.

275 3. With the exception of an adoption by a stepparent or  
276 relative, a child cannot be placed into a prospective adoptive  
277 home unless the prospective adoptive parents have received a  
278 favorable preliminary home study, including criminal and child  
279 abuse clearances.

280 4. A valid consent for adoption may not be signed by the  
281 birth mother until 48 hours after the birth of the child, or the  
282 day the birth mother is notified, in writing, that she is fit for  
283 discharge from the licensed hospital or birth center. Any man A  
284 ~~putative father~~ may sign a valid consent for adoption at any time  
285 after the birth of the child.

286 5. A consent for adoption signed before the child attains  
287 the age of 6 months is binding and irrevocable from the moment it

Bill No. SB 2762



842536

288 is signed unless it can be proven in court that the consent was  
289 obtained by fraud or duress. A consent for adoption signed after  
290 the child attains the age of 6 months is valid from the moment it  
291 is signed; however, it may be revoked ~~until the child is placed~~  
292 ~~in an adoptive home, or up to 3 days after it was signed,~~  
293 ~~whichever period is longer.~~

294 6. A consent for adoption is not valid if the signature of  
295 the person who signed the consent was obtained by fraud or  
296 duress.

297 7. An unmarried biological father must act immediately in  
298 order to protect his parental rights. Section 63.062, Florida  
299 Statutes, prescribes that any father seeking to establish his  
300 right to consent to the adoption of his child must file a claim  
301 of paternity with the Florida Putative Father Registry maintained  
302 by the Office of Vital Statistics of the Department of Health by  
303 the date a petition to terminate parental rights is filed with  
304 the court, or within 30 days after receiving service of a Notice  
305 of Intended Adoption Plan. If he receives a Notice of Intended  
306 Adoption Plan, he must file a claim of paternity with the Florida  
307 Putative Father Registry, file a parenting plan with the court,  
308 and provide financial support to the mother or child within 30  
309 days following service. An unmarried biological father's failure  
310 to timely respond to a Notice of Intended Adoption Plan  
311 constitutes an irrevocable legal waiver of any and all rights  
312 that the father may have to the child. A claim of paternity  
313 registration form for the Florida Putative Father Registry may be  
314 obtained from any local office of the Department of Health,  
315 Office of Vital Statistics, the Department of Children and  
316 Families, the Internet websites for these agencies, and the  
317 offices of the clerks of the Florida circuit courts. The claim of

Bill No. SB 2762



842536

318 paternity form must be submitted to the Office of Vital  
319 Statistics, Attention: Adoption Unit, P.O. Box 210, Jacksonville,  
320 FL 32231.

321 ~~8.7.~~ There are alternatives to adoption, including foster  
322 care, relative care, and parenting the child. There may be  
323 services and sources of financial assistance in the community  
324 available to ~~birth~~ parents if they choose to parent the child.

325 ~~9.8.~~ A ~~birth~~ parent has the right to have a witness of his  
326 or her choice, who is unconnected with the adoption entity or the  
327 adoptive parents, to be present and witness the signing of the  
328 consent or affidavit of nonpaternity.

329 ~~10.9.~~ A ~~birth~~ parent 14 years of age or younger must have a  
330 parent, legal guardian, or court-appointed guardian ad litem to  
331 assist and advise the ~~birth~~ parent as to the adoption plan.

332 ~~11.10.~~ A ~~birth~~ parent has a right to receive supportive  
333 counseling from a counselor, social worker, physician, clergy, or  
334 attorney, ~~and such counseling would be beneficial to the birth~~  
335 ~~parent.~~

336 ~~12.11.~~ The payment of living or medical expenses by the  
337 prospective adoptive parents before ~~prior to~~ the birth of the  
338 child does not, in any way, obligate the ~~birth~~ parent to sign the  
339 consent for adoption.

340 (2) DISCLOSURE TO ADOPTIVE PARENTS.--

341 (a) At the time that an adoption entity is responsible for  
342 selecting prospective adoptive parents for a born or unborn child  
343 whose parents are seeking to place the child for adoption or  
344 whose rights were terminated pursuant to chapter 39, the adoption  
345 entity must provide the prospective adoptive parents with  
346 information concerning the background of the child to the extent  
347 such information is disclosed to the adoption entity by the



842536

348 parents, legal custodian, or the department. This subsection  
349 applies only if the adoption entity identifies the prospective  
350 adoptive parents and supervises the physical placement of the  
351 child in the prospective adoptive parents' home. If any  
352 information cannot be disclosed because the records custodian  
353 failed or refused to produce the background information, the  
354 adoption entity has a duty to provide the information if it  
355 becomes available. An individual or entity contacted by an  
356 adoption entity to obtain the background information must release  
357 the requested information to the adoption entity without the  
358 necessity of a subpoena or a court order. In all cases, the  
359 prospective adoptive parents must receive all available  
360 information by the date of the final hearing on the petition for  
361 adoption. The information to be disclosed includes:

362 1. A family social and medical history form completed  
363 pursuant to s. 63.162(6).

364 2. The biological mother's medical records documenting her  
365 prenatal care and the birth and delivery of the child.

366 3. A complete set of the child's medical records  
367 documenting all medical treatment and care since the child's  
368 birth and before placement.

369 4. All mental health, psychological, and psychiatric  
370 records, reports, and evaluations concerning the child before  
371 placement.

372 5. The child's educational records, including all records  
373 concerning any special education needs of the child before  
374 placement.

375 6. Records documenting all incidents that required the  
376 department to provide services to the child, including all orders  
377 of adjudication of dependency or termination of parental rights



842536

378 issued pursuant to chapter 39, any case plans drafted to address  
379 the child's needs, all protective services investigations  
380 identifying the child as a victim, and all guardian ad litem  
381 reports filed with the court concerning the child.

382 7. Written information concerning the availability of  
383 adoption subsidies for the child, if applicable.

384 (b) When disclosing information pursuant to this  
385 subsection, the adoption entity must redact any confidential  
386 identifying information concerning the child's parents, foster  
387 parents and their families, siblings, and relatives and  
388 perpetrators of crimes against the child or involving the child.

389 (3) ~~(2)~~ ACKNOWLEDGMENT OF DISCLOSURE.--The adoption entity  
390 must obtain a written statement acknowledging receipt of the  
391 disclosures ~~disclosure~~ required under subsections ~~subsection~~ (1)  
392 and (2) and signed by the persons receiving the disclosure or, if  
393 it is not possible to obtain such an acknowledgment, the adoption  
394 entity must execute an affidavit stating why an acknowledgment  
395 could not be obtained. If the disclosure was delivered by  
396 certified ~~United States~~ mail, return receipt requested, a return  
397 receipt signed by the person from whom acknowledgment is required  
398 is sufficient to meet the requirements of this subsection. A copy  
399 of the acknowledgment of receipt of the disclosure must be  
400 provided to the person signing it. A copy of the acknowledgment  
401 or affidavit executed by the adoption entity in lieu of the  
402 acknowledgment must be maintained in the file of the adoption  
403 entity. The original acknowledgment or affidavit must be filed  
404 with the court.

405 (4) ~~(3)~~ REVOCATION OF CONSENT.--Failure to meet the  
406 requirements of this section ~~subsection (1) or subsection (2)~~  
407 does not constitute grounds for revocation of a consent to

Bill No. SB 2762



842536

408 adoption or withdrawal of an affidavit of nonpaternity unless the  
409 extent and circumstances of such a failure result in a material  
410 failure of fundamental fairness in the administration of due  
411 process, or the failure constitutes or contributes materially to  
412 fraud or duress in obtaining a consent to adoption or affidavit  
413 of nonpaternity.

414 Section 6. Section 402.115, Florida Statutes, is amended to  
415 read:

416 402.115 Sharing confidential or exempt  
417 information.--Notwithstanding any other provision of law to the  
418 contrary, the Department of Health, the Department of Children  
419 and Family Services, the Department of Juvenile Justice, and the  
420 Agency for Persons with Disabilities may share confidential  
421 information or information exempt from disclosure under chapter  
422 119 on any individual who is or has been the subject of a program  
423 within the jurisdiction of each agency. Information so exchanged  
424 remains confidential or exempt as provided by law.

425 Section 7. Present subsections (6), (7), and (8) of section  
426 415.107, Florida Statutes, are renumbered as subsections (7),  
427 (8), and (9), respectively, and a new subsection (6) is added to  
428 that section, to read:

429 415.107 Confidentiality of reports and records.--

430 (6) Any individual, agency, or other entity entitled to  
431 access records under this section may petition a circuit court,  
432 in accordance with s. 119.11, to enforce the provisions of this  
433 section.

434 Section 8. Section 415.1071, Florida Statutes, is amended  
435 to read:

436 415.1071 Release of confidential information.--



842536

437           (1) Any person or organization, including the department of  
438 ~~Children and Family Services~~, may petition the court for an order  
439 making public the records of the department of ~~Children and~~  
440 ~~Family Services~~ which pertain to an investigation ~~investigations~~  
441 of alleged abuse, neglect, or exploitation of a vulnerable adult.  
442 The court shall determine whether there is good cause ~~exists~~ for  
443 public access to the records sought or a portion thereof. In  
444 making a this determination of good cause, the court shall  
445 balance the best interests of the vulnerable adult who is the  
446 focus of the investigation together with the privacy right of  
447 other persons identified in the reports, against the public  
448 interest. The public interest in access to such records is  
449 reflected in s. 119.01(1), and includes the need for the public  
450 ~~citizens~~ to know of and adequately evaluate the actions of the  
451 department of ~~Children and Family Services~~ and the court system  
452 in providing vulnerable adults of ~~this state~~ with the protections  
453 enumerated in s. 415.101. However, this subsection does not  
454 contravene s. 415.107, which protects the name of any person  
455 reporting the abuse, neglect, or exploitation of a vulnerable  
456 adult.

457           (2) In cases involving serious bodily injury to a  
458 vulnerable adult, the department of ~~Children and Family Services~~  
459 may petition the court for an order for the immediate public  
460 release of records of the department which pertain to the  
461 protective investigation. The petition must be personally served  
462 upon the vulnerable adult, the vulnerable adult's legal guardian,  
463 if any, and any person named as an alleged perpetrator in the  
464 report of abuse, neglect, or exploitation. The court must  
465 determine whether good cause exists for the public release of the  
466 records sought no later than 24 hours, excluding Saturdays,



Bill No. SB 2762



842536

467 Sundays, and legal holidays, after the date the department filed  
468 the petition with the court. If the court does not grant or deny  
469 the petition within the 24-hour time period, the department may  
470 release to the public summary information including:

471 (a) A confirmation that an investigation has been conducted  
472 concerning the alleged victim.

473 (b) The dates and brief description of procedural  
474 activities undertaken during the department's investigation.

475 (c) The date of each judicial proceeding, a summary of each  
476 participant's recommendations made at the judicial proceeding,  
477 and the ruling of the court.

478

479 The summary information shall not include the name of, or other  
480 identifying information with respect to, any person identified in  
481 any investigation. In making a determination to release  
482 confidential information, the court shall balance the best  
483 interests of the vulnerable adult who is the focus of the  
484 investigation together with the privacy rights of other persons  
485 identified in the reports against the public interest for access  
486 to public records. However, this subsection does not contravene  
487 s. 415.107, which protects the name of any person reporting  
488 abuse, neglect, or exploitation of a vulnerable adult.

489 (3) If ~~When~~ the court determines that there is good cause  
490 for public access ~~exists~~, the court shall direct ~~that~~ the  
491 department to redact the name of and other identifying  
492 information with respect to any person identified in the any  
493 protective investigation report until ~~such time as~~ the court  
494 finds that there is probable cause to believe that the person  
495 identified committed an act of alleged abuse, neglect, or  
496 exploitation.



842536

497       (4) Notwithstanding subsections (1) and (2), the department  
498 may make public records of the department which pertain to  
499 investigations of alleged abuse, neglect, and exploitation of a  
500 vulnerable adult which resulted in serious mental, emotional, or  
501 physical injury to the adult if the secretary determines that  
502 release of the records is in the public interest and the public  
503 interest outweighs any privacy interest contained in the records.  
504 The public interest in access to such records is reflected in s.  
505 119.01(1), and includes the need for the public to know of and  
506 adequately evaluate the actions of the department and the court  
507 system in providing vulnerable adults of this state with the  
508 protections enumerated in s. 415.101. However, this subsection  
509 does not contravene s. 415.107, which protects the name of any  
510 person reporting the abuse, neglect, or exploitation of a  
511 vulnerable adult.

512       (a) Before releasing the records, the department shall  
513 attempt to notify the vulnerable adult, the vulnerable adult's  
514 legal guardian, if any, any person named as an alleged  
515 perpetrator in the report of abuse, neglect, or exploitation, and  
516 any law enforcement agency actively involved in investigating the  
517 alleged abuse, neglect, or exploitation. Such notification must  
518 take place at least 3 business days before releasing the records,  
519 which must be delivered by hand or via overnight delivery service  
520 with evidence of delivery.

521       (b) After receiving notice, the vulnerable adult, the  
522 vulnerable adult's legal guardian, any person named as an alleged  
523 perpetrator in the report, or any law enforcement agency actively  
524 investigating an allegation may petition a circuit court for an  
525 order preventing the department from releasing the records. If



842536

526 notified of a petition filed pursuant to this paragraph, the  
527 department may not release the records without a court order.

528 (c) The circuit court may order the department not to  
529 release the records only after finding that the best interests of  
530 the petitioner outweigh the public interest. Any information  
531 otherwise made confidential or exempt by law, including the name  
532 of the person reporting the abuse, neglect, or exploitation, may  
533 not be released pursuant to this subsection.

534 Section 9. This act shall take effect July 1, 2008.

535

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

537 And the title is amended as follows:

538

539 Delete everything before the enacting clause  
540 and insert:

541

A bill to be entitled

542

An act relating to confidential records of children;  
543 creating s. 39.00145, F.S.; requiring that the case file  
544 of a child under the supervision or in the custody of the  
545 Department of Children and Family Services be maintained  
546 in a complete and accurate manner; specifying who has  
547 access to the case file and records in the file;  
548 authorizing the court to directly release the child's  
549 records to certain entities; providing that entities that  
550 have access to confidential information about a child may  
551 share it with other entities that provide services  
552 benefiting children; amending s. 39.202, F.S.; clarifying  
553 who has access to a child's records and who may bring an  
554 action to require access to confidential records held by  
555 the department; amending s. 39.2021, F.S.; expanding the



842536

556 authority of the Department of Children and Family  
557 Services to release records relating to children on its  
558 own initiative upon a showing of good cause; requiring  
559 notice to certain parties before release; providing for a  
560 court order to stop the release; amending s. 63.037, F.S.;  
561 clarifying a cross-reference; amending s. 63.085, F.S.;  
562 requiring an adoption entity to provide certain  
563 information relating to a child to prospective adoptive  
564 parents; requiring that certain information be redacted;  
565 amending s. 402.115, F.S.; adding the Department of  
566 Juvenile Justice to the list of agencies that are  
567 authorized to exchange confidential information; amending  
568 s. 415.107, F.S.; clarifying who may bring an action to  
569 require access to confidential records held by the  
570 Department of Children and Family Services; amending s.  
571 415.1071, F.S.; expanding the authority of the department  
572 to release records relating to vulnerable adults on its  
573 own initiative upon a showing of good cause; requiring  
574 notice to certain parties before release; providing for a  
575 court order to stop the release; providing an effective  
576 date.