

By the Committees on Judiciary; and Children, Families, and Elder Affairs; and Senators Dockery, Bennett, Lynn, and Bullard

590-04431-09

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1                   A bill to be entitled  
2           An act relating to the confidential records of  
3           children; creating s. 39.00145, F.S.; requiring that  
4           the case record of a child under the supervision or in  
5           the custody of the Department of Children and Family  
6           Services be maintained in a complete and accurate  
7           manner; specifying who has access to the case record;  
8           authorizing the court to directly release the child's  
9           records to certain entities; providing that entities  
10          that have access to confidential information  
11          concerning a child may share it with other entities  
12          that provide services benefiting children; providing  
13          for exceptions for the sharing of confidential  
14          information under certain circumstances; amending s.  
15          39.202, F.S.; expanding the list of persons or  
16          entities that have access to child abuse records;  
17          revising how long the department must keep such  
18          records; requiring the department to provide notice of  
19          how the child's records may be obtained after the  
20          child leaves the department's custody; authorizing the  
21          department to adopt rules; providing an effective  
22          date.

23  
24 Be It Enacted by the Legislature of the State of Florida:

25  
26           Section 1. Section 39.00145, Florida Statutes, is created  
27 to read:

28           39.00145 Records concerning children.-

29           (1) The case record of every child under the supervision of

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30 or in the custody of the department, the department's authorized  
31 agents, or providers contracting with the department, including  
32 community-based care lead agencies and their subcontracted  
33 providers, must be maintained in a complete and accurate manner.  
34 The case record must contain, at a minimum, the child's case  
35 plan required under part VIII of this chapter and the full name  
36 and street address of all shelters, foster parents, group homes,  
37 treatment facilities, or locations where the child has been  
38 placed.

39 (2) Notwithstanding any other provision of this chapter,  
40 all records in a child's case record must be made available for  
41 inspection, upon request, to the child who is the subject of the  
42 case record and to the child's caregiver, guardian ad litem, or  
43 attorney.

44 (a) A complete and accurate copy of any record in a child's  
45 case record must be provided, upon request and at no cost, to  
46 the child who is the subject of the case record and to the  
47 child's caregiver, guardian ad litem, or attorney.

48 (b) The department shall release the information in a  
49 manner and setting that are appropriate to the age and maturity  
50 of the child and the nature of the information being released,  
51 which may include the release of information in a therapeutic  
52 setting, if appropriate. This paragraph does not deny the child  
53 access to his or her records.

54 (c) If a child or the child's caregiver, guardian ad litem,  
55 or attorney requests access to the child's case record, any  
56 person or entity that fails to provide any record in the case  
57 record under assertion of a claim of exemption from the public-  
58 records requirements of chapter 119, or fails to provide access

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59 within a reasonable time, is subject to sanctions and penalties  
60 under s. 119.10.

61 (3) If a court determines that sharing information in the  
62 child's case record is necessary to ensure access to appropriate  
63 services for the child or for the safety of the child, the court  
64 may approve the release of confidential records or information  
65 contained in them.

66 (4) Notwithstanding any other provision of law, all state  
67 and local agencies and programs that provide services to  
68 children or that are responsible for a child's safety, including  
69 the Department of Juvenile Justice, the Department of Health,  
70 the Agency for Health Care Administration, the Agency for  
71 Persons with Disabilities, the Department of Education, the  
72 Department of Revenue, the school districts, the Statewide  
73 Guardian Ad Litem Office, and any provider contracting with such  
74 agencies, may share with each other confidential records or  
75 information that are confidential or exempt from disclosure  
76 under chapter 119 if the records or information are reasonably  
77 necessary to ensure access to appropriate services for the  
78 child, including child support enforcement services, or for the  
79 safety of the child. However:

80 (a) Records or information made confidential by federal law  
81 may not be shared.

82 (b) This subsection does not apply to information  
83 concerning clients and records of certified domestic violence  
84 centers, which are confidential under s. 39.908 and privileged  
85 under s. 90.5036.

86 Section 2. Paragraph (r) is added to subsection (2) of  
87 section 39.202, Florida Statutes, and subsection (7) of that

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88 section is amended, to read:

89 39.202 Confidentiality of reports and records in cases of  
90 child abuse or neglect.—

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

95 (r) Persons with whom the department is seeking to place  
96 the child or to whom placement has been granted, including  
97 foster parents for whom an approved home study has been  
98 conducted, the designee of a licensed residential group home  
99 described in s. 39.523, an approved relative or nonrelative with  
100 whom a child is placed pursuant to s. 39.402, preadoptive  
101 parents for whom a favorable preliminary adoptive home study has  
102 been conducted, adoptive parents, or an adoption entity acting  
103 on behalf of preadoptive or adoptive parents.

104 (7) The department shall make and keep reports and records  
105 of all cases under this chapter ~~relating to child abuse,~~  
106 ~~abandonment, and neglect~~ and shall preserve the records  
107 pertaining to a child and family ~~until 7 years after the last~~  
108 ~~entry was made or~~ until the child who is the subject of the  
109 record is 30 is 18 years of age, whichever date is first  
110 ~~reached,~~ and may then destroy the records. ~~Department records~~  
111 ~~required by this chapter relating to child abuse, abandonment,~~  
112 ~~and neglect may be inspected only upon order of the court or as~~  
113 ~~provided for in this section.~~

114 (a) Within 90 days after the child leaves the department's  
115 custody, the department shall give a notice to the person having  
116 legal custody of the child, or to the young adult who was in the

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117 department's custody, which specifies how the records may be  
118 obtained.

119 (b) The department may adopt rules regarding the format,  
120 storage, retrieval, and release of such records.

121 Section 3. This act shall take effect July 1, 2009.