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LEGISLATIVE ACTION

Senate

.

House

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Floor: 2/AD/2R

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04/27/2009 06:47 PM

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Senator Dockery moved the following:

Senate Amendment (with title amendment)

Delete lines 97 - 108

and insert:

Section 3. Section 39.00145, Florida Statutes, is created
to read:

39.00145 Records concerning children.-

(1) The case record of every child under the supervision of
or in the custody of the department, the department's authorized
agents, or providers contracting with the department, including
community-based care lead agencies and their subcontracted
providers, must be maintained in a complete and accurate manner.



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13 The case record must contain, at a minimum, the child's case
14 plan required under part VIII of this chapter and the full name
15 and street address of all shelters, foster parents, group homes,
16 treatment facilities, or locations where the child has been
17 placed.

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

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

27 (b) The department shall release the information in a
28 manner and setting that are appropriate to the age and maturity
29 of the child and the nature of the information being released,
30 which may include the release of information in a therapeutic
31 setting, if appropriate. This paragraph does not deny the child
32 access to his or her records.

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

40 (d) For purposes of this subsection, the term "caregiver"
41 is limited to parents, legal custodians, permanent guardians, or



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42 foster parents; employees of a residential home, institution,
43 facility, or agency at which the child resides; and other
44 individuals legally responsible for a child's welfare in a
45 residential setting.

46 (3) If a court determines that sharing information in the
47 child's case record is necessary to ensure access to appropriate
48 services for the child or for the safety of the child, the court
49 may approve the release of confidential records or information
50 contained in them.

51 (4) Notwithstanding any other provision of law, all state
52 and local agencies and programs that provide services to
53 children or that are responsible for a child's safety, including
54 the Department of Juvenile Justice, the Department of Health,
55 the Agency for Health Care Administration, the Agency for
56 Persons with Disabilities, the Department of Education, the
57 Department of Revenue, the school districts, the Statewide
58 Guardian Ad Litem Office, and any provider contracting with such
59 agencies, may share with each other confidential records or
60 information that are confidential or exempt from disclosure
61 under chapter 119 if the records or information are reasonably
62 necessary to ensure access to appropriate services for the
63 child, including child support enforcement services, or for the
64 safety of the child. However:

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

67 (b) This subsection does not apply to information
68 concerning clients and records of certified domestic violence
69 centers, which are confidential under s. 39.908 and privileged
70 under s. 90.5036.



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71 Section 4. Paragraphs (r) and (s) are added to subsection
72 (2) of section 39.202, Florida Statutes, and subsection (7) of
73 that section is amended, to read:

74 39.202 Confidentiality of reports and records in cases of
75 child abuse or neglect.-

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

80 (r) Persons with whom the department is seeking to place
81 the child or to whom placement has been granted, including
82 foster parents for whom an approved home study has been
83 conducted, the designee of a licensed residential group home
84 described in s. 39.523, an approved relative or nonrelative with
85 whom a child is placed pursuant to s. 39.402, preadoptive
86 parents for whom a favorable preliminary adoptive home study has
87 been conducted, adoptive parents, or an adoption entity acting
88 on behalf of preadoptive or adoptive parents.

89 (s) A physician licensed under chapter 458 or chapter 459,
90 a psychologist licensed under chapter 490, or a mental health
91 professional licensed under chapter 491 engaged in the care or
92 treatment of the child.

93 (7) The department shall make and keep reports and records
94 of all cases under this chapter ~~relating to child abuse,~~
95 ~~abandonment, and neglect~~ and shall preserve the records
96 pertaining to a child and family ~~until 7 years after the last~~
97 ~~entry was made or~~ until the child who is the subject of the
98 record is 30 is 18 years of age, ~~whichever date is first~~
99 ~~reached,~~ and may then destroy the records. ~~Department records~~



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100 ~~required by this chapter relating to child abuse, abandonment,~~
101 ~~and neglect may be inspected only upon order of the court or as~~
102 ~~provided for in this section.~~

103 (a) Within 90 days after the child leaves the department's
104 custody, the department shall give a notice to the person having
105 legal custody of the child, or to the young adult who was in the
106 department's custody, which specifies how the records may be
107 obtained.

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

110
111 ===== T I T L E A M E N D M E N T =====

112 And the title is amended as follows:

113 Delete lines 7 - 10

114 and insert:

115 central abuse hotline; creating s. 39.00145, F.S.; requiring
116 that the case record of a child under the supervision or in the
117 custody of the Department of Children and Family Services be
118 maintained in a complete and accurate manner; specifying who has
119 access to the case record; authorizing the court to directly
120 release the child's records to certain entities; providing that
121 entities that have access to confidential information concerning
122 a child may share it with other entities that provide services
123 benefiting children; providing for exceptions for the sharing of
124 confidential information under certain circumstances; amending
125 s. 39.202, F.S.; expanding the list of persons or entities that
126 have access to child abuse records; revising how long the
127 department must keep such records; requiring the department to
128 provide notice of how the child's records may be obtained after



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129 the child leaves the department's custody; authorizing the
130 department to adopt rules;