

1 A bill to be entitled
 2 An act relating to access to confidential records of
 3 children; creating s. 39.00145, F.S.; requiring that the
 4 case file of a child under the supervision or in the
 5 custody of the Department of Children and Family Services
 6 be maintained in a complete and accurate manner;
 7 specifying who has access to the case file and records in
 8 the file; authorizing the court to release the child's
 9 records to certain entities; providing that entities that
 10 have access to confidential and exempt records about a
 11 child may share it with other entities that provide
 12 services benefiting children; amending s. 39.202, F.S.;
 13 specifying who has access to a child's records; amending
 14 s. 39.2021, F.S.; making editorial changes; amending s.
 15 402.115, F.S.; adding the Department of Juvenile Justice
 16 to the list of agencies that are authorized to exchange
 17 confidential or exempt information; amending s. 415.1071,
 18 F.S.; making editorial changes; providing an effective
 19 date.

20
 21 Be It Enacted by the Legislature of the State of Florida:

22
 23 Section 1. Section 39.00145, Florida Statutes, is created
 24 to read:

25 39.00145 Child records.--

26 (1) The case file of every child under the supervision of
 27 or in the custody of the department or its authorized agents or
 28 contract providers, including community-based care lead agencies

29 and their subcontracted providers, must be maintained in a
30 complete and accurate manner. "Complete and accurate manner"
31 includes, but is not limited to, inclusion within the case file
32 of the child's case plan required by part VIII of this chapter
33 and the full name and street address of all shelters, foster
34 parents, group homes, treatment facilities, or locations where
35 the child is placed.

36 (2) (a) Notwithstanding any other provision in this
37 chapter, the records in the case file shall be made available
38 for inspection upon request of the child or the child's
39 caregiver, guardian ad litem, or attorney, at no cost. A request
40 by the child's attorney must be submitted in writing.

41 (b) The child shall be provided with a complete and
42 accurate copy of his or her entire case file, at no cost, upon
43 the request of the child or the child's caregiver, guardian ad
44 litem, or attorney on behalf of the child.

45 (c) Release of records in the case file to the child or
46 the child's caregiver, guardian ad litem, or attorney does not
47 waive the confidential and exempt status of the records.

48 (3) If a court determines that sharing information in the
49 child's case file is necessary to ensure the child receives
50 access to appropriate services or for the safety of the child,
51 the court may approve the release of the confidential and exempt
52 records.

53 (4) For purposes of the Family Educational Rights and
54 Privacy Act, the disclosure of information in health and safety
55 emergencies applies to a child placed in shelter care or found
56 to be dependent under this chapter.

57 (5) (a) Notwithstanding any other provision of law, all
 58 state and local agencies and programs that provide services to
 59 children or are responsible for the safety of the child,
 60 including the department, the Department of Juvenile Justice,
 61 the Department of Health, the Agency for Health Care
 62 Administration, the Agency for Persons with Disabilities, the
 63 Department of Education, individual school districts, the
 64 Statewide Guardian Ad Litem Office, and any contract provider of
 65 such agencies, may share with each other confidential and exempt
 66 records if the records are reasonably necessary to ensure access
 67 by the child to appropriate services or for the safety of the
 68 child.

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

73 Section 2. Paragraph (a) of subsection (2) of section
 74 39.202, Florida Statutes, is amended, and paragraph (r) is added
 75 to that subsection, to read:

76 39.202 Confidentiality of reports and records in cases of
 77 child abuse or neglect.--

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

82 (a) Employees, authorized agents, or contract providers of
 83 the department, including community-based care lead agencies and
 84 their subcontracted providers, the Department of Health, the

85 Agency for Persons with Disabilities, or county agencies
 86 responsible for carrying out:

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

99
 100 Also, employees or agents of the Department of Juvenile Justice
 101 responsible for the provision of services to children, pursuant
 102 to chapters 984 and 985.

103 (r) Persons with whom placement of a child is being
 104 actively considered or has been granted, including a foster
 105 parent upon whom an approved home study has been conducted, the
 106 designee of a licensed residential group home pursuant to s.
 107 39.523, an approved relative or nonrelative placement pursuant
 108 to s. 39.402(4), a preadoptive parent upon whom a favorable
 109 preliminary adoptive home study has been conducted, an adoptive
 110 parent, or an adoption entity acting on behalf of the child, a
 111 preadoptive parent, or an adoptive parent.

112 Section 3. Section 39.2021, Florida Statutes, is amended

113 to read:

114 39.2021 Release of confidential information.--

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

123 (b) In making a this ~~this~~ determination of good cause, the
 124 court shall balance the best interests of the child who is the
 125 focus of the investigation and the interest of the ~~that~~ child's
 126 siblings, together with the privacy rights of other persons
 127 identified in the reports, against the public interest. The
 128 public interest in access to such records is reflected in s.
 129 119.01(1), and includes the need for the public ~~citizens~~ to know
 130 of and adequately evaluate the actions of the department ~~of~~
 131 ~~Children and Family Services~~ and the court system in providing
 132 children ~~of this state~~ with the protections enumerated in s.
 133 39.001. However, this subsection does not contravene s. 39.202,
 134 which protects the name of any person reporting the abuse,
 135 abandonment, or neglect of a child.

136 (2) (a) In cases involving serious bodily injury to a
 137 child, the department ~~of Children and Family Services~~ may
 138 petition the court for an order for the immediate public release
 139 of records of the department which pertain to the protective
 140 investigation. The petition must be personally served upon the

141 child, the child's parent or guardian, and any person named as
 142 an alleged perpetrator in the report of abuse, abandonment, or
 143 neglect. The court must determine whether good cause exists for
 144 the public release of the records sought no later than 24 hours,
 145 excluding Saturdays, Sundays, and legal holidays, after the date
 146 the department filed the petition with the court. If the court
 147 does not grant or deny the petition within the 24-hour time
 148 period, the department may release to the public summary
 149 information including:

150 1.~~(a)~~ A confirmation that an investigation has been
 151 conducted concerning the alleged victim.

152 2.~~(b)~~ The dates and brief description of procedural
 153 activities undertaken during the department's investigation.

154 3.~~(e)~~ The date of each judicial proceeding, a summary of
 155 each participant's recommendations made at the judicial
 156 proceeding, and the ruling of the court.

157 (b) The summary information shall not include the name of,
 158 or other identifying information with respect to, any person
 159 identified in any investigation. In making a determination to
 160 release confidential information, the court shall balance the
 161 best interests of the child who is the focus of the
 162 investigation and the interests of that child's siblings,
 163 together with the privacy rights of other persons identified in
 164 the reports against the public interest for access to public
 165 records. However, this subsection does not contravene s. 39.202,
 166 which protects the name of any person reporting abuse,
 167 abandonment, or neglect of a child.

168 (3) If ~~When~~ the court determines that there is good cause

169 for public access ~~exists~~, the court shall direct ~~that~~ the
 170 department to redact the name of, and other identifying
 171 information with respect to, any person identified in the ~~any~~
 172 protective investigation report until ~~such time as~~ the court
 173 finds that there is probable cause to believe that the person
 174 identified committed an act of alleged abuse, abandonment, or
 175 neglect.

176 Section 4. Section 402.115, Florida Statutes, is amended
 177 to read:

178 402.115 Sharing confidential or exempt
 179 information.--Notwithstanding any other provision of law to the
 180 contrary, the Department of Health, the Department of Children
 181 and Family Services, the Department of Juvenile Justice, and the
 182 Agency for Persons with Disabilities may share confidential
 183 information or information exempt from disclosure under chapter
 184 119 on any individual who is or has been the subject of a
 185 program within the jurisdiction of each agency. Information so
 186 exchanged remains confidential or exempt as provided by law.

187 Section 5. Section 415.1071, Florida Statutes, is amended
 188 to read:

189 415.1071 Release of confidential information.--

190 (1) (a) Any person or organization, including the
 191 department ~~of Children and Family Services~~, may petition the
 192 court for an order making public the records of the department
 193 ~~of Children and Family Services~~ which pertain to an
 194 investigation ~~investigations~~ of alleged abuse, neglect, or
 195 exploitation of a vulnerable adult. The court shall determine
 196 whether there is good cause ~~exists~~ for public access to the

197 records sought or a portion thereof.

198 **(b)** In making a ~~this~~ determination of good cause, the
 199 court shall balance the best interests of the vulnerable adult
 200 who is the focus of the investigation together with the privacy
 201 right of other persons identified in the reports, against the
 202 public interest. The public interest in access to such records
 203 is reflected in s. 119.01(1), and includes the need for the
 204 public ~~citizens~~ to know of and adequately evaluate the actions
 205 of the department ~~of Children and Family Services~~ and the court
 206 system in providing vulnerable adults ~~of this state~~ with the
 207 protections enumerated in s. 415.101. However, this subsection
 208 does not contravene s. 415.107, which protects the name of any
 209 person reporting the abuse, neglect, or exploitation of a
 210 vulnerable adult.

211 **(2)(a)** In cases involving serious bodily injury to a
 212 vulnerable adult, the department ~~of Children and Family Services~~
 213 may petition the court for an order for the immediate public
 214 release of records of the department which pertain to the
 215 protective investigation. The petition must be personally served
 216 upon the vulnerable adult, the vulnerable adult's legal
 217 guardian, if any, and any person named as an alleged perpetrator
 218 in the report of abuse, neglect, or exploitation. The court must
 219 determine whether good cause exists for the public release of
 220 the records sought no later than 24 hours, excluding Saturdays,
 221 Sundays, and legal holidays, after the date the department filed
 222 the petition with the court. If the court does not grant or deny
 223 the petition within the 24-hour time period, the department may
 224 release to the public summary information including:

225 1.~~(a)~~ A confirmation that an investigation has been
 226 conducted concerning the alleged victim.

227 2.~~(b)~~ The dates and brief description of procedural
 228 activities undertaken during the department's investigation.

229 3.~~(c)~~ The date of each judicial proceeding, a summary of
 230 each participant's recommendations made at the judicial
 231 proceeding, and the ruling of the court.

232 (b) The summary information shall not include the name of,
 233 or other identifying information with respect to, any person
 234 identified in any investigation. In making a determination to
 235 release confidential information, the court shall balance the
 236 best interests of the vulnerable adult who is the focus of the
 237 investigation together with the privacy rights of other persons
 238 identified in the reports against the public interest for access
 239 to public records. However, this subsection does not contravene
 240 s. 415.107, which protects the name of any person reporting
 241 abuse, neglect, or exploitation of a vulnerable adult.

242 (3) If ~~When~~ the court determines that there is good cause
 243 for public access ~~exists~~, the court shall direct ~~that~~ the
 244 department to redact the name of and other identifying
 245 information with respect to any person identified in the ~~any~~
 246 protective investigation report until ~~such time as~~ the court
 247 finds that there is probable cause to believe that the person
 248 identified committed an act of alleged abuse, neglect, or
 249 exploitation.

250 Section 6. This act shall take effect July 1, 2009.