

By the Committee on Children, Families, and Elder Affairs; and
Senator Montford

586-02486-19

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1 A bill to be entitled
2 An act relating to child abuse, abandonment, and
3 neglect; amending s. 39.202, F.S.; prohibiting the
4 Department of Children and Families from releasing the
5 names of school personnel who have provided
6 information during a protective investigation except
7 under certain circumstances; providing for future
8 legislative review and repeal of the exemption;
9 conforming provisions to changes made by the act;
10 providing a statement of public necessity; providing
11 an effective date.

12

13 Be It Enacted by the Legislature of the State of Florida:

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15 Section 1. Subsections (2) and (5) of section 39.202,
16 Florida Statutes, are amended to read:

17 39.202 Confidentiality of reports and records in cases of
18 child abuse or neglect.—

19 (2) Except as provided in subsection (4), access to such
20 records, excluding the name of the reporter and the names of
21 instructional personnel as defined in s. 1012.01(2), school
22 administrators as defined in s. 1012.01(3)(c), and educational

23 support employees as described in s. 1012.01(6)(a) who have
24 provided information during a protective investigation which
25 shall be released only as provided in subsection (5), shall be
26 granted only to the following persons, officials, and agencies:

27 (a) Employees, authorized agents, or contract providers of
28 the department, the Department of Health, the Agency for Persons
29 with Disabilities, the Office of Early Learning, or county

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30 agencies responsible for carrying out:

- 31 1. Child or adult protective investigations;
- 32 2. Ongoing child or adult protective services;
- 33 3. Early intervention and prevention services;
- 34 4. Healthy Start services;
- 35 5. Licensure or approval of adoptive homes, foster homes,
36 child care facilities, facilities licensed under chapter 393,
37 family day care homes, providers who receive school readiness
38 funding under part VI of chapter 1002, or other homes used to
39 provide for the care and welfare of children;
- 40 6. Employment screening for caregivers in residential group
41 homes; or
- 42 7. Services for victims of domestic violence when provided
43 by certified domestic violence centers working at the
44 department's request as case consultants or with shared clients.

45
46 Also, employees or agents of the Department of Juvenile Justice
47 responsible for the provision of services to children, pursuant
48 to chapters 984 and 985.

49 (b) Criminal justice agencies of appropriate jurisdiction.

50 (c) The state attorney of the judicial circuit in which the
51 child resides or in which the alleged abuse or neglect occurred.

52 (d) The parent or legal custodian of any child who is
53 alleged to have been abused, abandoned, or neglected, and the
54 child, and their attorneys, including any attorney representing
55 a child in civil or criminal proceedings. This access must ~~shall~~
56 be made available no later than 60 days after the department
57 receives the initial report of abuse, neglect, or abandonment.
58 However, any information otherwise made confidential or exempt

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59 by law may ~~shall~~ not be released pursuant to this paragraph.

60 (e) Any person alleged in the report as having caused the
61 abuse, abandonment, or neglect of a child. This access must
62 ~~shall~~ be made available no later than 60 days after the
63 department receives the initial report of abuse, abandonment, or
64 neglect and, when the alleged perpetrator is not a parent, must
65 ~~shall~~ be limited to information involving the protective
66 investigation only and may ~~shall~~ not include any information
67 relating to subsequent dependency proceedings. However, any
68 information otherwise made confidential or exempt by law may
69 ~~shall~~ not be released pursuant to this paragraph.

70 (f) A court upon its finding that access to such records
71 may be necessary for the determination of an issue before the
72 court; however, such access must ~~shall~~ be limited to inspection
73 in camera, unless the court determines that public disclosure of
74 the information contained therein is necessary for the
75 resolution of an issue then pending before it.

76 (g) A grand jury, by subpoena, upon its determination that
77 access to such records is necessary in the conduct of its
78 official business.

79 (h) Any appropriate official of the department or the
80 Agency for Persons with Disabilities who is responsible for:

81 1. Administration or supervision of the department's
82 program for the prevention, investigation, or treatment of child
83 abuse, abandonment, or neglect, or abuse, neglect, or
84 exploitation of a vulnerable adult, when carrying out his or her
85 official function;

86 2. Taking appropriate administrative action concerning an
87 employee of the department or the agency who is alleged to have

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88 perpetrated child abuse, abandonment, or neglect, or abuse,
89 neglect, or exploitation of a vulnerable adult; or

90 3. Employing and continuing employment of personnel of the
91 department or the agency.

92 (i) Any person authorized by the department who is engaged
93 in the use of such records or information for bona fide
94 research, statistical, or audit purposes. Such individual or
95 entity shall enter into a privacy and security agreement with
96 the department and shall comply with all laws and rules
97 governing the use of such records and information for research
98 and statistical purposes. Information identifying the subjects
99 of such records or information shall be treated as confidential
100 by the researcher and may ~~shall~~ not be released in any form.

101 (j) The Division of Administrative Hearings for purposes of
102 any administrative challenge.

103 (k) Any appropriate official of an ~~a Florida~~ advocacy
104 council in this state investigating a report of known or
105 suspected child abuse, abandonment, or neglect; the Auditor
106 General or the Office of Program Policy Analysis and Government
107 Accountability for the purpose of conducting audits or
108 examinations pursuant to law; or the guardian ad litem for the
109 child.

110 (l) Employees or agents of an agency of another state that
111 has comparable jurisdiction to the jurisdiction described in
112 paragraph (a).

113 (m) The Public Employees Relations Commission for the sole
114 purpose of obtaining evidence for appeals filed pursuant to s.
115 447.207. Records may be released only after deletion of all
116 information which specifically identifies persons other than the

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117 employee.

118 (n) Employees or agents of the Department of Revenue
119 responsible for child support enforcement activities.

120 (o) Any person in the event of the death of a child
121 determined to be a result of abuse, abandonment, or neglect.
122 Information identifying the person reporting abuse, abandonment,
123 or neglect may ~~shall~~ not be released. Any information otherwise
124 made confidential or exempt by law may ~~shall~~ not be released
125 pursuant to this paragraph.

126 (p) An employee of the local school district who is
127 designated as a liaison between the school district and the
128 department pursuant to an interagency agreement required under
129 s. 39.0016 and the principal of a public school, private school,
130 or charter school where the child is a student. Information
131 contained in the records which the liaison or the principal
132 determines are necessary for a school employee to effectively
133 provide a student with educational services may be released to
134 that employee.

135 (q) An employee or agent of the Department of Education who
136 is responsible for the investigation or prosecution of
137 misconduct by a certified educator.

138 (r) Staff of a children's advocacy center that is
139 established and operated under s. 39.3035.

140 (s) A physician licensed under chapter 458 or chapter 459,
141 a psychologist licensed under chapter 490, or a mental health
142 professional licensed under chapter 491 engaged in the care or
143 treatment of the child.

144 (t) Persons with whom the department is seeking to place
145 the child or to whom placement has been granted, including

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146 foster parents for whom an approved home study has been
147 conducted, the designee of a licensed residential group home
148 described in s. 39.523, an approved relative or nonrelative with
149 whom a child is placed pursuant to s. 39.402, preadoptive
150 parents for whom a favorable preliminary adoptive home study has
151 been conducted, adoptive parents, or an adoption entity acting
152 on behalf of preadoptive or adoptive parents.

153 (5) (a) The name of any person reporting child abuse,
154 abandonment, or neglect may not be released to any person other
155 than employees of the department responsible for child
156 protective services, the central abuse hotline, law enforcement,
157 the child protection team, or the appropriate state attorney,
158 without the written consent of the person reporting. This does
159 not prohibit the subpoenaing of a person reporting child abuse,
160 abandonment, or neglect when deemed necessary by the court, the
161 state attorney, or the department, provided the fact that such
162 person made the report is not disclosed. Any person who reports
163 a case of child abuse or neglect may, at the time he or she
164 makes the report, request that the department notify him or her
165 that a child protective investigation occurred as a result of
166 the report. Any person specifically listed in s. 39.201(1) who
167 makes a report in his or her official capacity may also request
168 a written summary of the outcome of the investigation. The
169 department must ~~shall~~ mail such a notice to the reporter within
170 10 days after completing the child protective investigation.

171 (b) The names of instructional personnel as defined in s.
172 1012.01(2), school administrators as defined in s.
173 1012.01(3)(c), and educational support employees as described in
174 s. 1012.01(6)(a) who provide information during a protective

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175 investigation may not be released to any person other than
176 employees of the department responsible for child protective
177 services, the central abuse hotline, law enforcement, the child
178 protection team, or the appropriate state attorney without the
179 written consent of such personnel. This does not prohibit the
180 subpoenaing of a person contributing information to an
181 investigation of child abuse, abandonment, or neglect when
182 deemed necessary by the court, the state attorney, or the
183 department. This paragraph is subject to the Open Government
184 Sunset Review Act in accordance with s. 119.15 and shall stand
185 repealed on October 2, 2024, unless reviewed and saved from
186 repeal through reenactment by the Legislature.

187 Section 2. The Legislature finds that it is a public
188 necessity that information that is exempt or confidential and
189 exempt from s. 119.07(1), Florida Statutes, and s. 24(a),
190 Article I of the State Constitution remain exempt or
191 confidential for instructional personnel as defined in s.
192 1012.01(2), Florida Statutes, school administrators as defined
193 in s. 1012.01(3)(c), Florida Statutes, and educational support
194 employees as described in s. 1012.01(6)(a), Florida Statutes,
195 who have provided information during a protective investigation.
196 Otherwise, sensitive personal information concerning school
197 employees would be disclosed, and such employees may experience
198 harassment or harm from family, fictive kin, or friends of the
199 alleged victim of child abuse. Such harassment may inhibit such
200 employees from providing important information to a child abuse
201 investigation. The harm that would result from the release of
202 such information substantially outweighs any public benefit that
203 would be achieved by disclosure.

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Section 3. This act shall take effect July 1, 2019.