

**By** the Committees on Education; and Children, Families, and Elder Affairs; and Senator Montford

581-03239-19

2019318c2

1                                   A bill to be entitled  
2       An act relating to public records; amending s. 39.202,  
3       F.S.; prohibiting the release of any identifying  
4       information with respect to any person reporting child  
5       abuse, abandonment, or neglect, except under certain  
6       circumstances; making conforming changes; providing a  
7       statement of public necessity; providing an effective  
8       date.

9  
10   Be It Enacted by the Legislature of the State of Florida:

11  
12       Section 1. Subsections (2) and (5) of section 39.202,  
13       Florida Statutes, are amended to read:

14       39.202 Confidentiality of reports and records in cases of  
15       child abuse or neglect.—

16       (2) Except as provided in subsection (4), access to such  
17       records, excluding the name of, or other identifying information  
18       with respect to, the reporter which shall be released only as  
19       provided in subsection (5), shall be granted only to the  
20       following persons, officials, and agencies:

21       (a) Employees, authorized agents, or contract providers of  
22       the department, the Department of Health, the Agency for Persons  
23       with Disabilities, the Office of Early Learning, or county  
24       agencies responsible for carrying out:

- 25           1. Child or adult protective investigations;  
26           2. Ongoing child or adult protective services;  
27           3. Early intervention and prevention services;  
28           4. Healthy Start services;  
29           5. Licensure or approval of adoptive homes, foster homes,

581-03239-19

2019318c2

30 child care facilities, facilities licensed under chapter 393,  
31 family day care homes, providers who receive school readiness  
32 funding under part VI of chapter 1002, or other homes used to  
33 provide for the care and welfare of children;

34 6. Employment screening for caregivers in residential group  
35 homes; or

36 7. Services for victims of domestic violence when provided  
37 by certified domestic violence centers working at the  
38 department's request as case consultants or with shared clients.

39

40 Also, employees or agents of the Department of Juvenile Justice  
41 responsible for the provision of services to children, pursuant  
42 to chapters 984 and 985.

43 (b) Criminal justice agencies of appropriate jurisdiction.

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

46 (d) The parent or legal custodian of any child who is  
47 alleged to have been abused, abandoned, or neglected, and the  
48 child, and their attorneys, including any attorney representing  
49 a child in civil or criminal proceedings. This access shall be  
50 made available no later than 60 days after the department  
51 receives the initial report of abuse, neglect, or abandonment.  
52 However, any information otherwise made confidential or exempt  
53 by law shall not be released pursuant to this paragraph.

54 (e) Any person alleged in the report as having caused the  
55 abuse, abandonment, or neglect of a child. This access shall be  
56 made available no later than 60 days after the department  
57 receives the initial report of abuse, abandonment, or neglect  
58 and, when the alleged perpetrator is not a parent, shall be

581-03239-19

2019318c2

59 limited to information involving the protective investigation  
60 only and shall not include any information relating to  
61 subsequent dependency proceedings. However, any information  
62 otherwise made confidential or exempt by law shall not be  
63 released pursuant to this paragraph.

64 (f) A court upon its finding that access to such records  
65 may be necessary for the determination of an issue before the  
66 court; however, such access shall be limited to inspection in  
67 camera, unless the court determines that public disclosure of  
68 the information contained therein is necessary for the  
69 resolution of an issue then pending before it.

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

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

75 1. Administration or supervision of the department's  
76 program for the prevention, investigation, or treatment of child  
77 abuse, abandonment, or neglect, or abuse, neglect, or  
78 exploitation of a vulnerable adult, when carrying out his or her  
79 official function;

80 2. Taking appropriate administrative action concerning an  
81 employee of the department or the agency who is alleged to have  
82 perpetrated child abuse, abandonment, or neglect, or abuse,  
83 neglect, or exploitation of a vulnerable adult; or

84 3. Employing and continuing employment of personnel of the  
85 department or the agency.

86 (i) Any person authorized by the department who is engaged  
87 in the use of such records or information for bona fide

581-03239-19

2019318c2

88 research, statistical, or audit purposes. Such individual or  
89 entity shall enter into a privacy and security agreement with  
90 the department and shall comply with all laws and rules  
91 governing the use of such records and information for research  
92 and statistical purposes. Information identifying the subjects  
93 of such records or information shall be treated as confidential  
94 by the researcher and shall not be released in any form.

95 (j) The Division of Administrative Hearings for purposes of  
96 any administrative challenge.

97 (k) Any appropriate official of a Florida advocacy council  
98 investigating a report of known or suspected child abuse,  
99 abandonment, or neglect; the Auditor General or the Office of  
100 Program Policy Analysis and Government Accountability for the  
101 purpose of conducting audits or examinations pursuant to law; or  
102 the guardian ad litem for the child.

103 (l) Employees or agents of an agency of another state that  
104 has comparable jurisdiction to the jurisdiction described in  
105 paragraph (a).

106 (m) The Public Employees Relations Commission for the sole  
107 purpose of obtaining evidence for appeals filed pursuant to s.  
108 447.207. Records may be released only after deletion of all  
109 information which specifically identifies persons other than the  
110 employee.

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

113 (o) Any person in the event of the death of a child  
114 determined to be a result of abuse, abandonment, or neglect.  
115 Information identifying the person reporting abuse, abandonment,  
116 or neglect shall not be released. Any information otherwise made

581-03239-19

2019318c2

117 confidential or exempt by law shall not be released pursuant to  
118 this paragraph.

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

128 (q) An employee or agent of the Department of Education who  
129 is responsible for the investigation or prosecution of  
130 misconduct by a certified educator.

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

133 (s) A physician licensed under chapter 458 or chapter 459,  
134 a psychologist licensed under chapter 490, or a mental health  
135 professional licensed under chapter 491 engaged in the care or  
136 treatment of the child.

137 (t) Persons with whom the department is seeking to place  
138 the child or to whom placement has been granted, including  
139 foster parents for whom an approved home study has been  
140 conducted, ~~the designee of a licensed residential group home~~  
141 ~~described in s. 39.523~~, an approved relative or nonrelative with  
142 whom a child is placed pursuant to s. 39.402, preadoptive  
143 parents for whom a favorable preliminary adoptive home study has  
144 been conducted, adoptive parents, or an adoption entity acting  
145 on behalf of preadoptive or adoptive parents.

581-03239-19

2019318c2

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

166           Section 2. The Legislature finds that it is a public  
167 necessity to strengthen reporter-status protection by making all  
168 reporter identifying information exempt from s. 119.07(1),  
169 Florida Statutes, and s. 24(a), Article I of the State  
170 Constitution. The current statutory scheme only protects the  
171 name of the reporter who calls into the abuse hotline. By  
172 protecting only the name of the reporter of child abuse,  
173 abandonment, or neglect, the identity of the individual may be  
174 discerned by other identifying information, thus rendering the

581-03239-19

2019318c2

175 protection ineffective. Providing robust protections to  
176 reporters of child abuse, abandonment, or neglect improves the  
177 mandatory reporting scheme by ensuring that all instances of  
178 suspected child abuse, abandonment, or neglect are reported to  
179 the Department of Children and Families. Therefore, it is  
180 necessary that individuals who are considered reporters under  
181 the current statutory scheme have their identifying information  
182 protected.

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