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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; updating terminology; making conforming
7 changes; providing for future legislative review and
8 repeal of the exemption; providing for reversion of
9 statutory text of certain provisions if the exemption
10 is not saved from repeal; providing a statement of
11 public necessity; providing an effective date.

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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, and subsection (9) is added to
17 that section, to read:

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

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

25 (a) Employees, authorized agents, or contract providers of
26 the department, the Department of Health, the Agency for Persons
27 with Disabilities, the Office of Early Learning, or county
28 agencies responsible for carrying out:

29 1. Child or adult protective investigations;

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30 2. Ongoing child or adult protective services;

31 3. Early intervention and prevention services;

32 4. Healthy Start services;

33 5. Licensure or approval of adoptive homes, foster homes,
34 child care facilities, facilities licensed under chapter 393,
35 family day care homes, providers who receive school readiness
36 funding under part VI of chapter 1002, or other homes used to
37 provide for the care and welfare of children;

38 6. Employment screening for caregivers in residential group
39 homes; or

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

43
44 Also, employees or agents of the Department of Juvenile Justice
45 responsible for the provision of services to children, pursuant
46 to chapters 984 and 985.

47 (b) Criminal justice agencies of appropriate jurisdiction.

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

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

58 (e) Any person alleged in the report as having caused the

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

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

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

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

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

84 2. Taking appropriate administrative action concerning an
85 employee of the department or the agency who is alleged to have
86 perpetrated child abuse, abandonment, or neglect, or abuse,
87 neglect, or exploitation of a vulnerable adult; or

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88 3. Employing and continuing employment of personnel of the
89 department or the agency.

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

99 (j) The Division of Administrative Hearings for purposes of
100 any administrative challenge.

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

107 (l) Employees or agents of an agency of another state that
108 has comparable jurisdiction to the jurisdiction described in
109 paragraph (a).

110 (m) The Public Employees Relations Commission for the sole
111 purpose of obtaining evidence for appeals filed pursuant to s.
112 447.207. Records may be released only after deletion of all
113 information which specifically identifies persons other than the
114 employee.

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

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

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

132 (q) An employee or agent of the Department of Education who
133 is responsible for the investigation or prosecution of
134 misconduct by a certified educator.

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

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

141 (t) Persons with whom the department is seeking to place
142 the child or to whom placement has been granted, including
143 foster parents for whom an approved home study has been
144 conducted, the designee of a licensed child-caring agency as
145 defined in s. 39.01(41) ~~residential group home described in s.~~

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146 ~~39.523~~, an approved relative or nonrelative with whom a child is
147 placed pursuant to s. 39.402, preadoptive parents for whom a
148 favorable preliminary adoptive home study has been conducted,
149 adoptive parents, or an adoption entity acting on behalf of
150 preadoptive or adoptive parents.

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

171 (9) The expansion of the public records exemption under
172 this section to include other identifying information with
173 respect to any person reporting child abuse, abandonment, or
174 neglect is subject to the Open Government Sunset Review Act in

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175 accordance with s. 119.15 and shall stand repealed on October 2,
176 2024, unless reviewed and saved from repeal through reenactment
177 by the Legislature. If the expansion of the exemption is not
178 saved from repeal, this section shall revert to that in
179 existence on June 30, 2019, except that any other amendments
180 made to this section, other than by this act, are preserved and
181 continue to operate to the extent that such amendments are not
182 dependent upon the portions of text that expire under this
183 subsection.

184 Section 2. The Legislature finds that it is a public
185 necessity to strengthen reporter-status protection by making all
186 reporter identifying information exempt from s. 119.07(1),
187 Florida Statutes, and s. 24(a), Article I of the State
188 Constitution. The current statutory scheme only protects the
189 name of the reporter who calls into the abuse hotline. By
190 protecting only the name of the reporter of child abuse,
191 abandonment, or neglect, the identity of the individual may be
192 discerned by other identifying information, thus rendering the
193 protection ineffective. Providing robust protections to
194 reporters of child abuse, abandonment, or neglect improves the
195 mandatory reporting scheme by ensuring that all instances of
196 suspected child abuse, abandonment, or neglect are reported to
197 the Department of Children and Families. Therefore, it is
198 necessary that individuals who are considered reporters under
199 the current statutory scheme have their identifying information
200 protected.

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