

1 A bill to be entitled
 2 An act relating to public records; amending s. 39.201,
 3 F.S.; providing that specific school personnel who
 4 follow certain policies when reporting child abuse,
 5 abandonment, or neglect are reporters for purposes of
 6 confidentiality; amending s. 39.202, F.S.; prohibiting
 7 the release of the name of, or other identifying
 8 information with respect to, any person reporting
 9 child abuse, abandonment, or neglect except under
 10 certain circumstances; making conforming changes;
 11 providing a statement of public necessity; providing
 12 an effective date.

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

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 16 Section 1. Paragraphs (d) through (h) of subsection (1) of
 17 section 39.201, Florida Statutes, are redesignated as paragraphs
 18 (e) through (i), respectively, and a new paragraph (d) is added
 19 to that section, to read:

20 39.201 Mandatory reports of child abuse, abandonment, or
 21 neglect; mandatory reports of death; central abuse hotline.—

22 (1)

23 (d) Any instructional personnel as defined in s.
 24 1012.01(2), school administrators as defined in s.
 25 1012.01(3)(c), or educational support employees as defined in s.

26 | 1012.01(6), who has followed a school-level or school district-
 27 | wide policy in reporting or providing information related to
 28 | child abuse, abandonment, or neglect, is a reporter for purposes
 29 | of s. 39.202.

30 | Section 2. Subsections (2) and (5) of section 39.202,
 31 | Florida Statutes, are amended to read:

32 | 39.202 Confidentiality of reports and records in cases of
 33 | child abuse or neglect.—

34 | (2) Except as provided in subsection (4), access to such
 35 | records, excluding the name of, or other identifying information
 36 | with respect to, the reporter which shall be released only as
 37 | provided in subsection (5), shall be granted only to the
 38 | following persons, officials, and agencies:

39 | (a) Employees, authorized agents, or contract providers of
 40 | the department, the Department of Health, the Agency for Persons
 41 | with Disabilities, the Office of Early Learning, or county
 42 | agencies responsible for carrying out:

- 43 | 1. Child or adult protective investigations;
- 44 | 2. Ongoing child or adult protective services;
- 45 | 3. Early intervention and prevention services;
- 46 | 4. Healthy Start services;
- 47 | 5. Licensure or approval of adoptive homes, foster homes,
 48 | child care facilities, facilities licensed under chapter 393,
 49 | family day care homes, providers who receive school readiness
 50 | funding under part VI of chapter 1002, or other homes used to

51 provide for the care and welfare of children;

52 6. Employment screening for caregivers in residential
53 group homes; or

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

57
58 Also, employees or agents of the Department of Juvenile Justice
59 responsible for the provision of services to children, pursuant
60 to chapters 984 and 985.

61 (b) Criminal justice agencies of appropriate jurisdiction.

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

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

73 (e) Any person alleged in the report as having caused the
74 abuse, abandonment, or neglect of a child. This access shall be
75 made available no later than 60 days after the department

76 receives the initial report of abuse, abandonment, or neglect
77 and, when the alleged perpetrator is not a parent, shall be
78 limited to information involving the protective investigation
79 only and shall not include any information relating to
80 subsequent dependency proceedings. However, any information
81 otherwise made confidential or exempt by law shall not be
82 released pursuant to this paragraph.

83 (f) A court upon its finding that access to such records
84 may be necessary for the determination of an issue before the
85 court; however, such access shall be limited to inspection in
86 camera, unless the court determines that public disclosure of
87 the information contained therein is necessary for the
88 resolution of an issue then pending before it.

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

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

- 94 1. Administration or supervision of the department's
95 program for the prevention, investigation, or treatment of child
96 abuse, abandonment, or neglect, or abuse, neglect, or
97 exploitation of a vulnerable adult, when carrying out his or her
98 official function;
- 99 2. Taking appropriate administrative action concerning an
100 employee of the department or the agency who is alleged to have

101 perpetrated child abuse, abandonment, or neglect, or abuse,
102 neglect, or exploitation of a vulnerable adult; or

103 3. Employing and continuing employment of personnel of the
104 department or the agency.

105 (i) Any person authorized by the department who is engaged
106 in the use of such records or information for bona fide
107 research, statistical, or audit purposes. Such individual or
108 entity shall enter into a privacy and security agreement with
109 the department and shall comply with all laws and rules
110 governing the use of such records and information for research
111 and statistical purposes. Information identifying the subjects
112 of such records or information shall be treated as confidential
113 by the researcher and shall not be released in any form.

114 (j) The Division of Administrative Hearings for purposes
115 of any administrative challenge.

116 (k) Any appropriate official of a Florida advocacy council
117 investigating a report of known or suspected child abuse,
118 abandonment, or neglect; the Auditor General or the Office of
119 Program Policy Analysis and Government Accountability for the
120 purpose of conducting audits or examinations pursuant to law; or
121 the guardian ad litem for the child.

122 (l) Employees or agents of an agency of another state that
123 has comparable jurisdiction to the jurisdiction described in
124 paragraph (a).

125 (m) The Public Employees Relations Commission for the sole

126 | purpose of obtaining evidence for appeals filed pursuant to s.
127 | 447.207. Records may be released only after deletion of all
128 | information which specifically identifies persons other than the
129 | employee.

130 | (n) Employees or agents of the Department of Revenue
131 | responsible for child support enforcement activities.

132 | (o) Any person in the event of the death of a child
133 | determined to be a result of abuse, abandonment, or neglect.
134 | Information identifying the person reporting abuse, abandonment,
135 | or neglect shall not be released. Any information otherwise made
136 | confidential or exempt by law shall not be released pursuant to
137 | this paragraph.

138 | (p) An employee of the local school district who is
139 | designated as a liaison between the school district and the
140 | department pursuant to an interagency agreement required under
141 | s. 39.0016 and the principal of a public school, private school,
142 | or charter school where the child is a student. Information
143 | contained in the records which the liaison or the principal
144 | determines are necessary for a school employee to effectively
145 | provide a student with educational services may be released to
146 | that employee.

147 | (q) An employee or agent of the Department of Education
148 | who is responsible for the investigation or prosecution of
149 | misconduct by a certified educator.

150 | (r) Staff of a children's advocacy center that is

151 established and operated under s. 39.3035.

152 (s) A physician licensed under chapter 458 or chapter 459,
153 a psychologist licensed under chapter 490, or a mental health
154 professional licensed under chapter 491 engaged in the care or
155 treatment of the child.

156 (t) Persons with whom the department is seeking to place
157 the child or to whom placement has been granted, including
158 foster parents for whom an approved home study has been
159 conducted, ~~the designee of a licensed residential group home~~
160 ~~described in s. 39.523,~~ an approved relative or nonrelative with
161 whom a child is placed pursuant to s. 39.402, preadoptive
162 parents for whom a favorable preliminary adoptive home study has
163 been conducted, adoptive parents, or an adoption entity acting
164 on behalf of preadoptive or adoptive parents.

165 (5) Any information contained in a report or record
166 relating to child abuse, abandonment, or neglect that would
167 identify ~~The name of~~ any person reporting child abuse,
168 abandonment, or neglect may not be released to any person other
169 than employees of the department responsible for child
170 protective services, the central abuse hotline, law enforcement,
171 the child protection team, or the appropriate state attorney,
172 without the written consent of the person reporting. This does
173 not prohibit the subpoenaing of a person reporting child abuse,
174 abandonment, or neglect when deemed necessary by the court, the
175 state attorney, or the department, provided the fact that such

176 person made the report is not disclosed. Any person who reports
177 a case of child abuse or neglect may, at the time he or she
178 makes the report, request that the department notify him or her
179 that a child protective investigation occurred as a result of
180 the report. Any person specifically listed in s. 39.201(1) who
181 makes a report in his or her official capacity may also request
182 a written summary of the outcome of the investigation. The
183 department shall mail such a notice to the reporter within 10
184 days after completing the child protective investigation.

185 Section 3. The Legislature finds that it is a public
186 necessity to provide reporter-status protection, provided by s.
187 39.202, to school instructional personnel, administrators, and
188 educational support employees who provide or report information
189 related to child abuse, abandonment, or neglect, pursuant to a
190 school or district-wide policy, and to strengthen reporter-
191 status protection by making all reporter identifying information
192 exempt from s. 119.07(1), Florida Statutes, and s. 24(a),
193 Article I of the State Constitution. The current statutory
194 scheme only protects the name of the first reporter who calls
195 into the abuse hotline. However, oftentimes school or district-
196 wide policies require school personnel to report information
197 related to child abuse, abandonment, or neglect to a designated
198 individual, rather than calling the abuse hotline. School
199 personnel who, pursuant to a school-wide or district policy,
200 report or provide information to a designated individual, do not

201 have their identities protected under the current scheme. This
202 gap in the statute opens them up to the possibility of
203 retaliation or harassment by any individual associated with the
204 incident and dissuades them from participating in the
205 investigation. Likewise, by protecting only the name of the
206 reporter of child abuse, abandonment, or neglect, the identity
207 of the individual may be discerned by other identifying
208 information, thus rendering the protection ineffective.
209 Providing robust protections to both the initial reporter, and
210 those school instructional personnel, administrators, and
211 educational support employees who provide information related to
212 child abuse, abandonment, or neglect, pursuant to a school or
213 district-wide policy, improves the mandatory reporting scheme by
214 ensuring that all instances of suspected child abuse,
215 abandonment, or neglect are reported to the department.
216 Therefore, it is necessary that school instructional personnel,
217 administrators, and educational support employees be provided
218 reporter status, and that individuals who are considered
219 reporters under the current statutory scheme have their
220 identifying information protected.

221 Section 4. This act shall take effect July 1, 2019.