

By the Committee on Children, Families, and Elder Affairs

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1                   A bill to be entitled  
2       An act relating to a review under the Open Government  
3       Sunset Review Act; amending s. 39.202, F.S., which  
4       provides a public records exemption for identifying  
5       information of persons reporting child abuse,  
6       abandonment, or neglect; abrogating the scheduled  
7       repeal of the exemption and the reversion of specified  
8       statutory text; providing an effective date.

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

11  
12       Section 1. Section 39.202, Florida Statutes, is amended to  
13   read:

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

16       (1) In order to protect the rights of the child and the  
17   child's parents or other persons responsible for the child's  
18   welfare, all records held by the department concerning reports  
19   of child abandonment, abuse, or neglect, including reports made  
20   to the central abuse hotline and all records generated as a  
21   result of such reports, shall be confidential and exempt from  
22   the provisions of s. 119.07(1) and shall not be disclosed except  
23   as specifically authorized by this chapter. Such exemption from  
24   s. 119.07(1) applies to information in the possession of those  
25   entities granted access as set forth in this section.

26       (2) Except as provided in subsection (4), access to such  
27   records, excluding the name of, or other identifying information  
28   with respect to, the reporter which shall be released only as  
29   provided in subsection (5), shall be granted only to the

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30 following persons, officials, and agencies:

31 (a) Employees, authorized agents, or contract providers of  
32 the department, the Department of Health, the Agency for Persons  
33 with Disabilities, the Agency for Health Care Administration,  
34 the Department of Education, or county agencies responsible for  
35 carrying out:

- 36 1. Child or adult protective investigations;
- 37 2. Ongoing child or adult protective services;
- 38 3. Early intervention and prevention services;
- 39 4. Healthy Start services;
- 40 5. Licensure or approval of adoptive homes, foster homes,  
41 child care facilities, facilities licensed under chapters 393  
42 and 394, family day care homes, providers who receive school  
43 readiness funding under part VI of chapter 1002, or other homes  
44 used to provide for the care and welfare of children;
- 45 6. Employment screening for caregivers in residential group  
46 homes and facilities licensed under chapters 393, 394, and 409;  
47 or
- 48 7. Services for victims of domestic violence when provided  
49 by certified domestic violence centers working at the  
50 department's request as case consultants or with shared clients.

51  
52 Also, employees or agents of the Department of Juvenile Justice  
53 responsible for the provision of services to children, pursuant  
54 to chapters 984 and 985.

55 (b) Criminal justice agencies of appropriate jurisdiction.

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

58 (d) The parent or legal custodian of any child who is

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59 alleged to have been abused, abandoned, or neglected, and the  
60 child, and their attorneys, including any attorney representing  
61 a child in civil or criminal proceedings. This access shall be  
62 made available no later than 60 days after the department  
63 receives the initial report of abuse, neglect, or abandonment.  
64 However, any information otherwise made confidential or exempt  
65 by law shall not be released pursuant to this paragraph.

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

76 (f) A court upon its finding that access to such records  
77 may be necessary for the determination of an issue before the  
78 court; however, such access shall be limited to inspection in  
79 camera, unless the court determines that public disclosure of  
80 the information contained therein is necessary for the  
81 resolution of an issue then pending before it.

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

85 (h) Any appropriate official of the department, the Agency  
86 for Health Care Administration, or the Agency for Persons with  
87 Disabilities who is responsible for:

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88           1. Administration or supervision of the department's  
89 program for the prevention, investigation, or treatment of child  
90 abuse, abandonment, or neglect, or abuse, neglect, or  
91 exploitation of a vulnerable adult, when carrying out his or her  
92 official function;

93           2. Taking appropriate administrative action concerning an  
94 employee of the department or the agency who is alleged to have  
95 perpetrated child abuse, abandonment, or neglect, or abuse,  
96 neglect, or exploitation of a vulnerable adult; or

97           3. Employing and continuing employment of personnel of the  
98 department or the agency.

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

108           (j) The Division of Administrative Hearings for purposes of  
109 any administrative challenge.

110           (k) Any appropriate official of a Florida advocacy council  
111 investigating a report of known or suspected child abuse,  
112 abandonment, or neglect; the Auditor General or the Office of  
113 Program Policy Analysis and Government Accountability for the  
114 purpose of conducting audits or examinations pursuant to law; or  
115 the guardian ad litem for the child.

116           (l) Employees or agents of an agency of another state that

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117 has comparable jurisdiction to the jurisdiction described in  
118 paragraph (a).

119 (m) The Public Employees Relations Commission for the sole  
120 purpose of obtaining evidence for appeals filed pursuant to s.  
121 447.207. Records may be released only after deletion of all  
122 information which specifically identifies persons other than the  
123 employee.

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

126 (o) Any person in the event of the death of a child  
127 determined to be a result of abuse, abandonment, or neglect.  
128 Information identifying the person reporting abuse, abandonment,  
129 or neglect shall not be released. Any information otherwise made  
130 confidential or exempt by law shall not be released pursuant to  
131 this paragraph.

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

141 (q) An employee or agent of the Department of Education who  
142 is responsible for the investigation or prosecution of  
143 misconduct by a certified educator.

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

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146 (s) A physician licensed under chapter 458 or chapter 459,  
147 a psychologist licensed under chapter 490, or a mental health  
148 professional licensed under chapter 491 engaged in the care or  
149 treatment of the child.

150 (t) Persons with whom the department is seeking to place  
151 the child or to whom placement has been granted, including  
152 foster parents for whom an approved home study has been  
153 conducted, the designee of a licensed child-caring agency as  
154 defined in s. 39.01(41), an approved relative or nonrelative  
155 with whom a child is placed pursuant to s. 39.402, preadoptive  
156 parents for whom a favorable preliminary adoptive home study has  
157 been conducted, adoptive parents, or an adoption entity acting  
158 on behalf of preadoptive or adoptive parents.

159 (3) The department may release to professional persons such  
160 information as is necessary for the diagnosis and treatment of  
161 the child or the person perpetrating the abuse or neglect.

162 (4) Notwithstanding any other provision of law, when a  
163 child under investigation or supervision of the department or  
164 its contracted service providers is determined to be missing,  
165 the following shall apply:

166 (a) The department may release the following information to  
167 the public when it believes the release of the information is  
168 likely to assist efforts in locating the child or to promote the  
169 safety or well-being of the child:

- 170 1. The name of the child and the child's date of birth;
- 171 2. A physical description of the child, including at a  
172 minimum the height, weight, hair color, eye color, gender, and  
173 any identifying physical characteristics of the child; and
- 174 3. A photograph of the child.

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175 (b) With the concurrence of the law enforcement agency  
176 primarily responsible for investigating the incident, the  
177 department may release any additional information it believes  
178 likely to assist efforts in locating the child or to promote the  
179 safety or well-being of the child.

180 (c) The law enforcement agency primarily responsible for  
181 investigating the incident may release any information received  
182 from the department regarding the investigation, if it believes  
183 the release of the information is likely to assist efforts in  
184 locating the child or to promote the safety or well-being of the  
185 child.

186  
187 The good faith publication or release of this information by the  
188 department, a law enforcement agency, or any recipient of the  
189 information as specifically authorized by this subsection shall  
190 not subject the person, agency or entity releasing the  
191 information to any civil or criminal penalty. This subsection  
192 does not authorize the release of the name of the reporter,  
193 which may be released only as provided in subsection (5).

194 (5) The department may not release the name of, or other  
195 identifying information with respect to, any person reporting  
196 child abuse, abandonment, or neglect to any person other than  
197 employees of the department responsible for child protective  
198 services, the central abuse hotline, law enforcement, the Child  
199 Protection Team, or the appropriate state attorney, without the  
200 written consent of the person reporting. This does not prohibit  
201 the subpoenaing of a person reporting child abuse, abandonment,  
202 or neglect when deemed necessary by the court, the state  
203 attorney, or the department, provided the fact that such person

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204 made the report is not disclosed. Any person who reports a case  
205 of child abuse or neglect may, at the time he or she makes the  
206 report, request that the department notify him or her that a  
207 child protective investigation occurred as a result of the  
208 report. Any person specifically listed in s. 39.201(1) who makes  
209 a report in his or her official capacity may also request a  
210 written summary of the outcome of the investigation. The  
211 department shall mail such a notice to the reporter within 10  
212 days after completing the child protective investigation.

213 (6) All records and reports of the Child Protection Team of  
214 the Department of Health are confidential and exempt from the  
215 provisions of ss. 119.07(1) and 456.057, and shall not be  
216 disclosed, except, upon request, to the state attorney, law  
217 enforcement, the department, and necessary professionals, in  
218 furtherance of the treatment or additional evaluative needs of  
219 the child, by order of the court, or to health plan payors,  
220 limited to that information used for insurance reimbursement  
221 purposes.

222 (7) Custodians of records made confidential and exempt  
223 under this section must grant access to such records within 7  
224 business days after such records are requested by a legislative  
225 committee under s. 11.143, if requested within that timeframe.

226 (8) The department shall make and keep reports and records  
227 of all cases under this chapter and shall preserve the records  
228 pertaining to a child and family until the child who is the  
229 subject of the record is 30 years of age, and may then destroy  
230 the records. Within 90 days after the child leaves the  
231 department's custody, the department shall give a notice to the  
232 person having legal custody of the child, or to the young adult



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233 who was in the department's custody, which specifies how the  
234 records may be obtained.

235 (9) A person who knowingly or willfully makes public or  
236 discloses to any unauthorized person any confidential  
237 information contained in the central abuse hotline is subject to  
238 the penalty provisions of s. 39.205. This notice shall be  
239 prominently displayed on the first sheet of any documents  
240 released pursuant to this section.

241 ~~(10) The expansion of the public records exemption under~~  
242 ~~this section to include other identifying information with~~  
243 ~~respect to any person reporting child abuse, abandonment, or~~  
244 ~~neglect is subject to the Open Government Sunset Review Act in~~  
245 ~~accordance with s. 119.15 and shall stand repealed on October 2,~~  
246 ~~2024, unless reviewed and saved from repeal through reenactment~~  
247 ~~by the Legislature. If the expansion of the exemption is not~~  
248 ~~saved from repeal, this section shall revert to that in~~  
249 ~~existence on June 30, 2019, except that any other amendments~~  
250 ~~made to this section, other than by this act, are preserved and~~  
251 ~~continue to operate to the extent that such amendments are not~~  
252 ~~dependent upon the portions of text that expire under this~~  
253 ~~subsection.~~

254 Section 2. This act shall take effect October 1, 2024.