

FOR CONSIDERATION By the Committee on Children, Families, and Elder Affairs

586-01951-24

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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.

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

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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.