

By Senator Montford

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1                   A bill to be entitled  
2           An act relating to child abuse, abandonment, and  
3           neglect; amending s. 39.202, F.S.; prohibiting the  
4           Department of Children and Families from releasing the  
5           names of certain persons who have provided information  
6           during a protective investigation except under certain  
7           circumstances; providing an effective date.

8  
9   Be It Enacted by the Legislature of the State of Florida:

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

13           39.202 Confidentiality of reports and records in cases of  
14   child abuse or neglect.—

15           (2) Except as provided in subsection (4), access to such  
16   records, excluding the name of the reporter and the names of  
17   instructional personnel as defined in s. 1012.01(2), school  
18   administrators as defined in s. 1012.01(3)(c), and educational  
19   support employees as described in s. 1012.01(6)(a) who have  
20   provided information during a protective investigation which  
21   shall be released only as provided in subsection (5), shall be  
22   granted only to the following persons, officials, and agencies:

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

- 27           1. Child or adult protective investigations;  
28           2. Ongoing child or adult protective services;  
29           3. Early intervention and prevention services;

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30 4. Healthy Start services;

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

36 6. Employment screening for caregivers in residential group  
37 homes; or

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

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

45 (b) Criminal justice agencies of appropriate jurisdiction.

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

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

56 (e) Any person alleged in the report as having caused the  
57 abuse, abandonment, or neglect of a child. This access must  
58 ~~shall~~ be made available no later than 60 days after the

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59 department receives the initial report of abuse, abandonment, or  
60 neglect and, when the alleged perpetrator is not a parent, must  
61 ~~shall~~ be limited to information involving the protective  
62 investigation only and may ~~shall~~ not include any information  
63 relating to subsequent dependency proceedings. However, any  
64 information otherwise made confidential or exempt by law may  
65 ~~shall~~ not be released pursuant to this paragraph.

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

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

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

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

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

86 3. Employing and continuing employment of personnel of the  
87 department or the agency.

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

97 (j) The Division of Administrative Hearings for purposes of  
98 any administrative challenge.

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

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

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

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

116 (o) Any person in the event of the death of a child

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117 determined to be a result of abuse, abandonment, or neglect.  
118 Information identifying the person reporting abuse, abandonment,  
119 or neglect may ~~shall~~ not be released. Any information otherwise  
120 made confidential or exempt by law may ~~shall~~ not be released  
121 pursuant to this paragraph.

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

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

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

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

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

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146 parents for whom a favorable preliminary adoptive home study has  
147 been conducted, adoptive parents, or an adoption entity acting  
148 on behalf of preadoptive or adoptive parents.

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

167 (b) The names of instructional personnel as defined in s.  
168 1012.01(2), school administrators as defined in s.  
169 1012.01(3)(c), and educational support employees as described in  
170 s. 1012.01(6)(a) who have provided information during a  
171 protective investigation may not be released to any person other  
172 than employees of the department responsible for child  
173 protective services, the central abuse hotline, law enforcement,  
174 the child protection team, or the appropriate state attorney

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175 without the written consent of such personnel.

176 Section 2. This act shall take effect July 1, 2018.