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LEGISLATIVE ACTION

Senate

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House

The Committee on Children, Families, and Elder Affairs
(Montford) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

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

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

(2) Except as provided in subsection (4), access to such
records, excluding the name of the reporter and the names of



11 instructional personnel as defined in s. 1012.01(2), school
12 administrators as defined in s. 1012.01(3)(c), and educational
13 support employees as described in s. 1012.01(6)(a) who have
14 provided information during a protective investigation which
15 shall be released only as provided in subsection (5), shall be
16 granted only to the following persons, officials, and agencies:

17 (a) Employees, authorized agents, or contract providers of
18 the department, the Department of Health, the Agency for Persons
19 with Disabilities, the Office of Early Learning, or county
20 agencies responsible for carrying out:

- 21 1. Child or adult protective investigations;
- 22 2. Ongoing child or adult protective services;
- 23 3. Early intervention and prevention services;
- 24 4. Healthy Start services;
- 25 5. Licensure or approval of adoptive homes, foster homes,
26 child care facilities, facilities licensed under chapter 393,
27 family day care homes, providers who receive school readiness
28 funding under part VI of chapter 1002, or other homes used to
29 provide for the care and welfare of children;
- 30 6. Employment screening for caregivers in residential group
31 homes; or
- 32 7. Services for victims of domestic violence when provided
33 by certified domestic violence centers working at the
34 department's request as case consultants or with shared clients.

35
36 Also, employees or agents of the Department of Juvenile Justice
37 responsible for the provision of services to children, pursuant
38 to chapters 984 and 985.

39 (b) Criminal justice agencies of appropriate jurisdiction.



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

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

50 (e) Any person alleged in the report as having caused the
51 abuse, abandonment, or neglect of a child. This access must
52 ~~shall~~ be made available no later than 60 days after the
53 department receives the initial report of abuse, abandonment, or
54 neglect and, when the alleged perpetrator is not a parent, must
55 ~~shall~~ be limited to information involving the protective
56 investigation only and may ~~shall~~ not include any information
57 relating to subsequent dependency proceedings. However, any
58 information otherwise made confidential or exempt by law may
59 ~~shall~~ not be released pursuant to this paragraph.

60 (f) A court upon its finding that access to such records
61 may be necessary for the determination of an issue before the
62 court; however, such access must ~~shall~~ be limited to inspection
63 in camera, unless the court determines that public disclosure of
64 the information contained therein is necessary for the
65 resolution of an issue then pending before it.

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



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

71 1. Administration or supervision of the department's
72 program for the prevention, investigation, or treatment of child
73 abuse, abandonment, or neglect, or abuse, neglect, or
74 exploitation of a vulnerable adult, when carrying out his or her
75 official function;

76 2. Taking appropriate administrative action concerning an
77 employee of the department or the agency who is alleged to have
78 perpetrated child abuse, abandonment, or neglect, or abuse,
79 neglect, or exploitation of a vulnerable adult; or

80 3. Employing and continuing employment of personnel of the
81 department or the agency.

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

91 (j) The Division of Administrative Hearings for purposes of
92 any administrative challenge.

93 (k) Any appropriate official of an ~~a Florida~~ advocacy
94 council in this state investigating a report of known or
95 suspected child abuse, abandonment, or neglect; the Auditor
96 General or the Office of Program Policy Analysis and Government
97 Accountability for the purpose of conducting audits or



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98 examinations pursuant to law; or the guardian ad litem for the
99 child.

100 (l) Employees or agents of an agency of another state that
101 has comparable jurisdiction to the jurisdiction described in
102 paragraph (a).

103 (m) The Public Employees Relations Commission for the sole
104 purpose of obtaining evidence for appeals filed pursuant to s.
105 447.207. Records may be released only after deletion of all
106 information which specifically identifies persons other than the
107 employee.

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

110 (o) Any person in the event of the death of a child
111 determined to be a result of abuse, abandonment, or neglect.
112 Information identifying the person reporting abuse, abandonment,
113 or neglect may ~~shall~~ not be released. Any information otherwise
114 made confidential or exempt by law may ~~shall~~ not be released
115 pursuant to this paragraph.

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

125 (q) An employee or agent of the Department of Education who
126 is responsible for the investigation or prosecution of



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127 misconduct by a certified educator.

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

130 (s) A physician licensed under chapter 458 or chapter 459,
131 a psychologist licensed under chapter 490, or a mental health
132 professional licensed under chapter 491 engaged in the care or
133 treatment of the child.

134 (t) Persons with whom the department is seeking to place
135 the child or to whom placement has been granted, including
136 foster parents for whom an approved home study has been
137 conducted, the designee of a licensed residential group home
138 described in s. 39.523, an approved relative or nonrelative with
139 whom a child is placed pursuant to s. 39.402, preadoptive
140 parents for whom a favorable preliminary adoptive home study has
141 been conducted, adoptive parents, or an adoption entity acting
142 on behalf of preadoptive or adoptive parents.

143 (5) (a) The name of any person reporting child abuse,
144 abandonment, or neglect may not be released to any person other
145 than employees of the department responsible for child
146 protective services, the central abuse hotline, law enforcement,
147 the child protection team, or the appropriate state attorney,
148 without the written consent of the person reporting. This does
149 not prohibit the subpoenaing of a person reporting child abuse,
150 abandonment, or neglect when deemed necessary by the court, the
151 state attorney, or the department, provided the fact that such
152 person made the report is not disclosed. Any person who reports
153 a case of child abuse or neglect may, at the time he or she
154 makes the report, request that the department notify him or her
155 that a child protective investigation occurred as a result of



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156 the report. Any person specifically listed in s. 39.201(1) who
157 makes a report in his or her official capacity may also request
158 a written summary of the outcome of the investigation. The
159 department must ~~shall~~ mail such a notice to the reporter within
160 10 days after completing the child protective investigation.

161 (b) The names of instructional personnel as defined in s.
162 1012.01(2), school administrators as defined in s.
163 1012.01(3)(c), and educational support employees as described in
164 s. 1012.01(6)(a) who provide information during a protective
165 investigation may not be released to any person other than
166 employees of the department responsible for child protective
167 services, the central abuse hotline, law enforcement, the child
168 protection team, or the appropriate state attorney without the
169 written consent of such personnel. This does not prohibit the
170 subpoenaing of a person contributing information to an
171 investigation of child abuse, abandonment, or neglect when
172 deemed necessary by the court, the state attorney, or the
173 department. This paragraph is subject to the Open Government
174 Sunset Review Act in accordance with s. 119.15 and shall stand
175 repealed on October 2, 2024, unless reviewed and saved from
176 repeal through reenactment by the Legislature.

177 Section 2. The Legislature finds that it is a public
178 necessity that information that is exempt or confidential and
179 exempt from s. 119.07(1), Florida Statutes, and s. 24(a),
180 Article I of the State Constitution remain exempt or
181 confidential for instructional personnel as defined in s.
182 1012.01(2), school administrators as defined in s.
183 1012.01(3)(c), and educational support employees as described in
184 s. 1012.01(6)(a) who have provided information during a



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185 protective investigation. Otherwise, sensitive personal
186 information concerning school employees would be disclosed, and
187 such employees may experience harassment or harm from family,
188 fictive kin, or friends of the alleged victim of child abuse.
189 Such harassment may inhibit such employees from providing
190 important information to a child abuse investigation. The harm
191 that would result from the release of such information
192 substantially outweighs any public benefit that would be
193 achieved by disclosure.

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

195
196 ===== T I T L E A M E N D M E N T =====

197 And the title is amended as follows:

198 Delete everything before the enacting clause
199 and insert:

200 A bill to be entitled

201 An act relating to child abuse, abandonment, and
202 neglect; amending s. 39.202, F.S.; prohibiting the
203 Department of Children and Families from releasing the
204 names of school personnel who have provided
205 information during a protective investigation except
206 under certain circumstances; providing for future
207 legislative review and repeal of the exemption;
208 conforming provisions to changes made by the act;
209 providing a statement of public necessity; ; providing
210 an effective date.