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LEGISLATIVE ACTION

Senate

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House

The Committee on Education (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, or other identifying information
with respect to, the reporter which shall be released only as



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12 provided in subsection (5), shall be granted only to the
13 following persons, officials, and agencies:

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

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

32
33 Also, employees or agents of the Department of Juvenile Justice
34 responsible for the provision of services to children, pursuant
35 to chapters 984 and 985.

36 (b) Criminal justice agencies of appropriate jurisdiction.

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

39 (d) The parent or legal custodian of any child who is
40 alleged to have been abused, abandoned, or neglected, and the



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41 child, and their attorneys, including any attorney representing
42 a child in civil or criminal proceedings. This access shall be
43 made available no later than 60 days after the department
44 receives the initial report of abuse, neglect, or abandonment.
45 However, any information otherwise made confidential or exempt
46 by law shall not be released pursuant to this paragraph.

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

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

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

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

68 1. Administration or supervision of the department's
69 program for the prevention, investigation, or treatment of child



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70 abuse, abandonment, or neglect, or abuse, neglect, or
71 exploitation of a vulnerable adult, when carrying out his or her
72 official function;

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

77 3. Employing and continuing employment of personnel of the
78 department or the agency.

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

88 (j) The Division of Administrative Hearings for purposes of
89 any administrative challenge.

90 (k) Any appropriate official of a Florida advocacy council
91 investigating a report of known or suspected child abuse,
92 abandonment, or neglect; the Auditor General or the Office of
93 Program Policy Analysis and Government Accountability for the
94 purpose of conducting audits or examinations pursuant to law; or
95 the guardian ad litem for the child.

96 (l) Employees or agents of an agency of another state that
97 has comparable jurisdiction to the jurisdiction described in
98 paragraph (a).



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99 (m) The Public Employees Relations Commission for the sole
100 purpose of obtaining evidence for appeals filed pursuant to s.
101 447.207. Records may be released only after deletion of all
102 information which specifically identifies persons other than the
103 employee.

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

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

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

121 (q) An employee or agent of the Department of Education who
122 is responsible for the investigation or prosecution of
123 misconduct by a certified educator.

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

126 (s) A physician licensed under chapter 458 or chapter 459,
127 a psychologist licensed under chapter 490, or a mental health



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128 professional licensed under chapter 491 engaged in the care or
129 treatment of the child.

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

139 (5) The department may not release the name of, or other
140 identifying information with respect to, any person reporting
141 child abuse, abandonment, or neglect ~~may not be released~~ to any
142 person other than employees of the department responsible for
143 child protective services, the central abuse hotline, law
144 enforcement, the child protection team, or the appropriate state
145 attorney, without the written consent of the person reporting.
146 This does not prohibit the subpoenaing of a person reporting
147 child abuse, abandonment, or neglect when deemed necessary by
148 the court, the state attorney, or the department, provided the
149 fact that such person made the report is not disclosed. Any
150 person who reports a case of child abuse or neglect may, at the
151 time he or she makes the report, request that the department
152 notify him or her that a child protective investigation occurred
153 as a result of the report. Any person specifically listed in s.
154 39.201(1) who makes a report in his or her official capacity may
155 also request a written summary of the outcome of the
156 investigation. The department shall mail such a notice to the



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157 reporter within 10 days after completing the child protective
158 investigation.

159 Section 2. The Legislature finds that it is a public
160 necessity to strengthen reporter-status protection by making all
161 reporter identifying information exempt from s. 119.07(1),
162 Florida Statutes, and s. 24(a), Article I of the State
163 Constitution. The current statutory scheme only protects the
164 name of the reporter who calls into the abuse hotline. By
165 protecting only the name of the reporter of child abuse,
166 abandonment, or neglect, the identity of the individual may be
167 discerned by other identifying information, thus rendering the
168 protection ineffective. Providing robust protections to
169 reporters of child abuse, abandonment, or neglect improves the
170 mandatory reporting scheme by ensuring that all instances of
171 suspected child abuse, abandonment, or neglect are reported to
172 the Department of Children and Families. Therefore, it is
173 necessary that individuals who are considered reporters under
174 the current statutory scheme have their identifying information
175 protected.

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

177
178 ===== T I T L E A M E N D M E N T =====

179 And the title is amended as follows:

180 Delete everything before the enacting clause
181 and insert:

182 A bill to be entitled
183 An act relating to public records; amending s. 39.202,
184 F.S.; prohibiting the release of any identifying
185 information with respect to any person reporting child



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186 abuse, abandonment, or neglect, except under certain
187 circumstances; making conforming changes; providing a
188 statement of public necessity; providing an effective
189 date.