

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Children, Families, and Elder Affairs

BILL: CS/ SB 318

INTRODUCER: Children, Families, and Elder Affairs Committee and Senator Montford

SUBJECT: Child Abuse, Abandonment, and Neglect

DATE: February 20, 2019 **REVISED:** _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Preston	Hendon	CF	Fav/CS
2.			ED	
3.			RC	

Please see Section IX. for Additional Information:
COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 318 amends the laws relating to child abuse, neglect and abandonment reporting and confidentiality of records. Specifically the bill expands the public records exemption for certain reporters of child abuse to school personnel who contribute information to a child abuse investigation.

The bill has no fiscal impact and has an effective date of July 1, 2019.

II. Present Situation:

Reporting of Child Abuse, Abandonment and Neglect

Current law requires that any individual who knows, or who has reasonable cause to suspect, that a child is being abused, abandoned or neglected by a caregiver to report that knowledge to the department's central abuse hotline. Any known or suspected child abuse by a non-caregiver and sexual abuse of a child is also required to be reported. Reporters in a number of occupational categories are required to provide their names to the hotline, including a:

- Physician, osteopathic physician, medical examiner, chiropractic physician, nurse, or hospital personnel engaged in the admission, examination, care, or treatment of persons;
- Health or mental health professional other than one listed above;
- Practitioner who relies solely on spiritual means for healing;
- School teacher or other school official or personnel;

- Social worker, day care center worker, or other professional child care, foster care, residential, or institutional worker;
- Law enforcement officer; or
- Judge.

Confidentiality of Records

Section 39.202, F.S., currently provides that the names of reporters of known or suspected child abuse, abandonment or neglect to the central abuse hotline shall be entered into the record of the report, but shall be held confidential and exempt from disclosure. There are currently no provisions in statute for protecting the identifying information of any individual who has made a report to the central abuse hotline or is identified in an investigation.

Nonetheless, the Department of Children and Families' (DCF or department) operating procedures contain additional protections for ensuring confidentiality. In addition to redaction of the reporter's name from released records, any summary information released from the record shall be in narrative form and shall "not include the name or other identifying information with respect to any person identified in any investigation." To further prevent inadvertent disclosure of confidential information, the procedure also prohibits the department from attaching "any investigation record documents" to the narrative summary.¹

III. Effect of Proposed Changes:

Section 1 amends s. 39.202, F.S., to prevent the disclosure of the names of any school instructional personnel as defined in s. 1012.01(2), F.S., school administrator as defined in s. 1012.01(3)(c), F.S., and educational support employee as defined in s. 1012(6)(a), F.S., who has contributed information to a child abuse investigation. Shielding the identity of these employees will prevent retaliation from the parents of the abused child. Such retaliation could inhibit employees from contributing important information to a child abuse investigation. The bill does not prohibit a subpoena of such information in a criminal case. This exemption from the public records law will expire on October 2, 2024 unless reenacted by the Legislature.

Section 2 provides legislative intent that the exemption to the public records law is a public necessity. The bill further explains that without such an exemption, school personnel can experience harassment or harm from the family of the child that is subject to a child abuse investigation.

Section 3 provides an effective date of July 1, 2019.

¹Department of Children and Families Operating Procedure, CFOP 15-12, "Procedures For Releasing Selected Information Pertaining To A Report Of Abuse, Neglect, Exploitation Or Abandonment Of A Child Or Adult," available at: <http://www.dcf.state.fl.us/admin/publications/cfops/CFOP%202015-xx%20Documentation%20Management/CFOP%2015-12.%20Procedures%20for%20Releasing%20Selected%20Information%20Pertaining%20to%20a%20Report%20of%20Abuse.%20Neglect.%20Exploitation%20or%20Abandonment%20of%20a%20Child%20or%20Adult.pdf> (Last visited February 13, 2019).

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

The bill amends s. 39.202 of the Florida Statutes.

IX. Additional Information:

- A. **Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Children, Families, and Elder Affairs on February 19, 2019:

- The CS removes language that would define school personnel providing information to a child abuse investigation as a reporter.
- The CS removes language that would protect the identify of all reporters of child abuse.
- The CS exempts the identity of school personnel who provide information to a child abuse investigation from the public records law.
- The CS repeals the new exemption from the public records law on October 2, 2024 unless reenacted by the Legislature.
- The CS provides a statement of public necessity for the exemption.

- B. **Amendments:**

None.