

By the Committees on Rules; Education; and Children, Families, and Elder Affairs; and Senator Montford

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1 A bill to be entitled
2 An act relating to public records; amending s. 39.202,
3 F.S.; prohibiting the release of any identifying
4 information with respect to any person reporting child
5 abuse, abandonment, or neglect, except under certain
6 circumstances; updating terminology; making conforming
7 changes; providing a statement of public necessity;
8 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. Subsections (2) and (5) of section 39.202,
13 Florida Statutes, are amended to read:

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

16 (2) Except as provided in subsection (4), access to such
17 records, excluding the name of, or other identifying information
18 with respect to, the reporter which shall be released only as
19 provided in subsection (5), shall be granted only to the
20 following persons, officials, and agencies:

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

- 25 1. Child or adult protective investigations;
26 2. Ongoing child or adult protective services;
27 3. Early intervention and prevention services;
28 4. Healthy Start services;
29 5. Licensure or approval of adoptive homes, foster homes,

595-03840-19

2019318c3

30 child care facilities, facilities licensed under chapter 393,
31 family day care homes, providers who receive school readiness
32 funding under part VI of chapter 1002, or other homes used to
33 provide for the care and welfare of children;

34 6. Employment screening for caregivers in residential group
35 homes; or

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

39
40 Also, employees or agents of the Department of Juvenile Justice
41 responsible for the provision of services to children, pursuant
42 to chapters 984 and 985.

43 (b) Criminal justice agencies of appropriate jurisdiction.

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

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

54 (e) Any person alleged in the report as having caused the
55 abuse, abandonment, or neglect of a child. This access shall be
56 made available no later than 60 days after the department
57 receives the initial report of abuse, abandonment, or neglect
58 and, when the alleged perpetrator is not a parent, shall be

595-03840-19

2019318c3

59 limited to information involving the protective investigation
60 only and shall not include any information relating to
61 subsequent dependency proceedings. However, any information
62 otherwise made confidential or exempt by law shall not be
63 released pursuant to this paragraph.

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

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

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

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

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

84 3. Employing and continuing employment of personnel of the
85 department or the agency.

86 (i) Any person authorized by the department who is engaged
87 in the use of such records or information for bona fide

595-03840-19

2019318c3

88 research, statistical, or audit purposes. Such individual or
89 entity shall enter into a privacy and security agreement with
90 the department and shall comply with all laws and rules
91 governing the use of such records and information for research
92 and statistical purposes. Information identifying the subjects
93 of such records or information shall be treated as confidential
94 by the researcher and shall not be released in any form.

95 (j) The Division of Administrative Hearings for purposes of
96 any administrative challenge.

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

103 (l) Employees or agents of an agency of another state that
104 has comparable jurisdiction to the jurisdiction described in
105 paragraph (a).

106 (m) The Public Employees Relations Commission for the sole
107 purpose of obtaining evidence for appeals filed pursuant to s.
108 447.207. Records may be released only after deletion of all
109 information which specifically identifies persons other than the
110 employee.

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

113 (o) Any person in the event of the death of a child
114 determined to be a result of abuse, abandonment, or neglect.
115 Information identifying the person reporting abuse, abandonment,
116 or neglect shall not be released. Any information otherwise made

595-03840-19

2019318c3

117 confidential or exempt by law shall not be released pursuant to
118 this paragraph.

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

128 (q) An employee or agent of the Department of Education who
129 is responsible for the investigation or prosecution of
130 misconduct by a certified educator.

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

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

137 (t) Persons with whom the department is seeking to place
138 the child or to whom placement has been granted, including
139 foster parents for whom an approved home study has been
140 conducted, the designee of a licensed child-caring agency as
141 defined in s. 39.01(41) ~~residential group home described in s.~~
142 ~~39.523,~~ an approved relative or nonrelative with whom a child is
143 placed pursuant to s. 39.402, preadoptive parents for whom a
144 favorable preliminary adoptive home study has been conducted,
145 adoptive parents, or an adoption entity acting on behalf of

595-03840-19

2019318c3

146 preadoptive or adoptive parents.

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

167 Section 2. The Legislature finds that it is a public
168 necessity to strengthen reporter-status protection by making all
169 reporter identifying information exempt from s. 119.07(1),
170 Florida Statutes, and s. 24(a), Article I of the State
171 Constitution. The current statutory scheme only protects the
172 name of the reporter who calls into the abuse hotline. By
173 protecting only the name of the reporter of child abuse,
174 abandonment, or neglect, the identity of the individual may be

595-03840-19

2019318c3

175 discerned by other identifying information, thus rendering the
176 protection ineffective. Providing robust protections to
177 reporters of child abuse, abandonment, or neglect improves the
178 mandatory reporting scheme by ensuring that all instances of
179 suspected child abuse, abandonment, or neglect are reported to
180 the Department of Children and Families. Therefore, it is
181 necessary that individuals who are considered reporters under
182 the current statutory scheme have their identifying information
183 protected.

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