

1 A bill to be entitled
2 An act relating to public records; amending s. 39.202,
3 F.S.; prohibiting the release of the name of, or other
4 identifying information with respect to, any person
5 reporting child abuse, abandonment, or neglect except
6 under certain circumstances; revising persons who have
7 access to certain records; providing for future
8 legislative review and repeal of the exemption;
9 providing for reversion of statutory text of certain
10 provisions if the exemption is not saved from repeal;
11 providing a statement of public necessity; providing
12 an effective date.

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14 Be It Enacted by the Legislature of the State of Florida:

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16 Section 1. Subsections (2) and (5) of section 39.202,
17 Florida Statutes, are amended, and subsection (9) is added to
18 that section to read:

19 39.202 Confidentiality of reports and records in cases of
20 child abuse or neglect.—

21 (2) Except as provided in subsection (4), access to such
22 records, excluding the name of, or other identifying information
23 with respect to, the reporter which shall be released only as
24 provided in subsection (5), shall be granted only to the
25 following persons, officials, and agencies:

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

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

44
45 Also, employees or agents of the Department of Juvenile Justice
46 responsible for the provision of services to children, pursuant
47 to chapters 984 and 985.

48 (b) Criminal justice agencies of appropriate jurisdiction.

49 (c) The state attorney of the judicial circuit in which
50 the child resides or in which the alleged abuse or neglect

51 | occurred.

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

60 | (e) Any person alleged in the report as having caused the
61 | abuse, abandonment, or neglect of a child. This access shall be
62 | made available no later than 60 days after the department
63 | receives the initial report of abuse, abandonment, or neglect
64 | and, when the alleged perpetrator is not a parent, shall be
65 | limited to information involving the protective investigation
66 | only and shall not include any information relating to
67 | subsequent dependency proceedings. However, any information
68 | otherwise made confidential or exempt by law shall not be
69 | released pursuant to this paragraph.

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

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

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

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

86 2. Taking appropriate administrative action concerning an
87 employee of the department or the agency who is alleged to have
88 perpetrated child abuse, abandonment, or neglect, or abuse,
89 neglect, or exploitation of a vulnerable adult; or

90 3. Employing and continuing employment of personnel of the
91 department or the agency.

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

101 (j) The Division of Administrative Hearings for purposes
102 of any administrative challenge.

103 (k) Any appropriate official of a Florida advocacy council
104 investigating a report of known or suspected child abuse,
105 abandonment, or neglect; the Auditor General or the Office of
106 Program Policy Analysis and Government Accountability for the
107 purpose of conducting audits or examinations pursuant to law; or
108 the guardian ad litem for the child.

109 (l) Employees or agents of an agency of another state that
110 has comparable jurisdiction to the jurisdiction described in
111 paragraph (a).

112 (m) The Public Employees Relations Commission for the sole
113 purpose of obtaining evidence for appeals filed pursuant to s.
114 447.207. Records may be released only after deletion of all
115 information which specifically identifies persons other than the
116 employee.

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

119 (o) Any person in the event of the death of a child
120 determined to be a result of abuse, abandonment, or neglect.
121 Information identifying the person reporting abuse, abandonment,
122 or neglect shall not be released. Any information otherwise made
123 confidential or exempt by law shall not be released pursuant to
124 this paragraph.

125 (p) An employee of the local school district who is

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

134 (q) An employee or agent of the Department of Education
135 who is responsible for the investigation or prosecution of
136 misconduct by a certified educator.

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

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

143 (t) Persons with whom the department is seeking to place
144 the child or to whom placement has been granted, including
145 foster parents for whom an approved home study has been
146 conducted, the designee of a licensed child-caring agency as
147 defined in s. 39.01 ~~residential group home described in s.~~
148 ~~39.523~~, an approved relative or nonrelative with whom a child is
149 placed pursuant to s. 39.402, preadoptive parents for whom a
150 favorable preliminary adoptive home study has been conducted,

151 adoptive parents, or an adoption entity acting on behalf of
152 preadoptive or adoptive parents.

153 (5) The department may not release the name of, or other
154 identifying information with respect to, any person reporting
155 child abuse, abandonment, or neglect ~~may not be released~~ to any
156 person other than employees of the department responsible for
157 child protective services, the central abuse hotline, law
158 enforcement, the child protection team, or the appropriate state
159 attorney, without the written consent of the person reporting.
160 This does not prohibit the subpoenaing of a person reporting
161 child abuse, abandonment, or neglect when deemed necessary by
162 the court, the state attorney, or the department, provided the
163 fact that such person made the report is not disclosed. Any
164 person who reports a case of child abuse or neglect may, at the
165 time he or she makes the report, request that the department
166 notify him or her that a child protective investigation occurred
167 as a result of the report. Any person specifically listed in s.
168 39.201(1) who makes a report in his or her official capacity may
169 also request a written summary of the outcome of the
170 investigation. The department shall mail such a notice to the
171 reporter within 10 days after completing the child protective
172 investigation.

173 (9) The expansion of the public records exemption under
174 this section to include other identifying information with
175 respect to any person reporting child abuse, abandonment, or

176 neglect is subject to the Open Government Sunset Review Act in
177 accordance with s. 119.15 and shall stand repealed on October 2,
178 2024, unless reviewed and saved from repeal through reenactment
179 by the Legislature. If the expansion of the exemption is not
180 saved from repeal, this section shall revert to that in
181 existence on June 30, 2019, except that any other amendments
182 made to this section, other than by this act, are preserved and
183 continue to operate to the extent that such amendments are not
184 dependent upon the portions of text that expire under this
185 subsection.

186 Section 2. The Legislature finds that it is a public
187 necessity to strengthen reporter-status protection by making all
188 reporter identifying information exempt from s. 119.07(1),
189 Florida Statutes, and s. 24(a), Article I of the State
190 Constitution. The current statutory scheme only protects the
191 name of the reporter who calls into the abuse hotline. By
192 protecting only the name of the reporter of child abuse,
193 abandonment, or neglect, the identity of the individual may be
194 discerned by other identifying information, thus rendering the
195 protection ineffective. Providing robust protections to
196 reporters of child abuse, abandonment, or neglect improves the
197 mandatory reporting scheme by ensuring that all instances of
198 suspected child abuse, abandonment, or neglect are reported to
199 the department. Therefore, it is necessary that individuals who
200 are considered reporters under the current statutory scheme have

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201 | their identifying information protected.

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