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1 A bill to be entitled
2 An act relating to Confidentiality of reports and
3 records in cases of child abuse, abandonment and
4 neglect.

5
6 Be It Enacted by the Legislature of the State of Florida:

7
8 Section 1 Subsections (1) and (2) of Section 39.202,
9 Florida Statutes, are amended and subsection (9) of Section
10 39.202, Florida Statutes, is created to read:

11 39.202 Confidentiality of reports and records in cases
12 of child abuse, abandonment and neglect.

13 (1) All personal identifying information contained in
14 records concerning reports of child abuse, abandonment or
15 neglect, regarding the following individuals is confidential
16 and exempt from Section 119.07(1):

17 (a) information which identified the child or child's
18 siblings;

19 (b) information which identifies the child's parents,
20 legal custodian, permanent guardian, other adult household
21 members responsible for the care of the child, and other
22 individuals responsible for the child's welfare, unless any
23 of the listed individuals are arrested as a result of the
24 report of child abuse, abandonment or neglect, or any of the
25 listed individuals are the subject of an injunction issued
26 by a court pursuant to s.39.504;

27 (c) information which identifies the reporter of the
28 alleged abuse, abandonment or neglect; and

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1 ~~(1) In order to protect the rights of the child and~~
2 ~~the child's parents or other persons responsible for the~~
3 ~~child's welfare, all records held by the department~~
4 ~~concerning reports of child abandonment, abuse, or neglect,~~
5 ~~including reports made to the central abuse hotline and all~~
6 ~~records generated as a result of such reports, shall be~~
7 ~~confidential and exempt from the provisions of s.119.07 (1)~~
8 ~~and shall not be disclosed except as specifically authorized~~
9 ~~by this chapter. Such exemption from s.119.07 (1) applies~~
10 ~~to information in the possession of those entities granted~~
11 ~~access as set forth in this section.~~

12 (2) Except as provided in subsection (4), access to
13 the confidential information such records, excluding the
14 name of the reporter which shall be released only as
15 provided in subsection (5), shall be granted only to the
16 following persons, officials, and agencies:

17 (a) Employees, authorized agents, and contract
18 providers of the department or any agency which provides
19 services to the child or the child's family and any federal,
20 state, and local government entities that need the
21 information to carry out their legal responsibilities to
22 protect children from abuse, abandonment or neglect.

23 ~~(a) Employees, authorized agents, or contract~~
24 ~~providers of the department, the Department of Health, the~~
25 ~~Agency for persons with Disabilities, or county agencies~~
26 ~~responsible for carrying out:~~

- 27 ~~1. Child or adult protective investigations;~~
28 ~~2. Ongoing child or adult protective services;~~
29 ~~3. Early intervention and prevention services;~~

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1 ~~4. Healthy Start services;~~
2 ~~5. Licensure or approval of adoptive homes, foster-~~
3 ~~homes, child care facilities, facilities licensed under~~
4 ~~chapter 393, or family day care homes or informal child care~~
5 ~~providers who receive subsidized child care funding, or~~
6 ~~other homes used to provide for the care and welfare of~~
7 ~~children; or~~

8 ~~6. Services for victims of domestic violence when~~
9 ~~provided by certified domestic violence centers working at~~
10 ~~the department's request as case consultants or with shared~~
11 ~~clients.~~

12 ~~Also, employees or agents of the Department of Juvenile~~
13 ~~Justice responsible for the provision of services to~~
14 ~~children, pursuant to chapters 984 and 985.~~

15 ~~(b) Criminal justice agencies of appropriate~~
16 ~~jurisdiction.~~

17 ~~(c) The state attorney of the judicial circuit in~~
18 ~~which the child resides or in which the alleged abuse or~~
19 ~~neglect occurred.~~

20 (b) (d) The parent or legal custodian of any child
21 who is alleged to have been abused, abandoned, or neglected,
22 and the child, and their attorneys, including any attorney
23 representing a child in civil or criminal proceedings. This
24 access shall be made available no later than 30 days after
25 the department receives the initial report of abuse,
26 neglect, or abandonment. However, any information otherwise
27 made confidential or exempt by law shall not be released
28 pursuant to this paragraph.

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1 (c) ~~(e)~~ Any person alleged in the report as having
2 caused the abuse, abandonment, or neglect of a child. This
3 access shall be made available no later than 30 days after
4 the department receives the initial report of abuse,
5 abandonment, or neglect and, when the alleged perpetrator is
6 not a parent, shall be limited to information involving the
7 protective investigation only and shall not include any
8 information relating to subsequent dependency proceedings.
9 However, any information otherwise made confidential or
10 exempt by law shall not be released pursuant to this
11 paragraph.

12 (d) ~~(f)~~ A court upon its findings that access to such
13 information records may be necessary for the determination
14 of an issue before the court. †

15 (e) ~~(g)~~ A grand jury, by subpoena, upon its
16 determination that access to such information records is
17 necessary in the conduct of its official business.

18 ~~(h) Any appropriate official of the department or the~~
19 ~~Agency for persons with Disabilities who is responsible for:~~

20 ~~1. Administration or supervision of the department's~~
21 ~~program for the prevention, investigation, or treatment of~~
22 ~~child abuse, abandonment, or neglect, or abuse, neglect, or~~
23 ~~exploitation of a vulnerable adult, when carrying out his or~~
24 ~~her official function;~~

25 ~~2. Taking appropriate administrative action~~
26 ~~concerning an employee of the department or the agency who~~
27 ~~is alleged to have perpetrated child abuse, abandonment, or~~
28 ~~neglect, or abuse, neglect, or exploitation of a vulnerable~~
29 ~~adult; or~~

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1 ~~3. Employing and continuing employment of personnel~~
2 ~~of the department or the agency.~~

3 (f) ~~(i)~~—Any Person authorized by the department who
4 is engaged in the use of such records or information for
5 bona fide research, statistical, or audit purposes. Such
6 individual or entity shall enter into a privacy and security
7 agreement with the department and shall comply with all laws
8 and rules governing the use of such records and information
9 for research and statistical purposes. Information
10 identifying the subjects of such records or information
11 shall be treated as confidential by the researcher and shall
12 not be released in any form.

13 (g) ~~(j)~~ The Division of Administrative Hearings for
14 purposes of any administrative challenge.

15 (h) ~~(k)~~ Any appropriate official of a Florida
16 advocacy council investigating a report of known or
17 suspected child abuse, abandonment, or neglect; the Auditor
18 General or the office of Program Policy Analysis and
19 Government Accountability for the purpose of conducting
20 audits or examinations pursuant to law; or the guardian ad
21 litem for the child.

22 (i) ~~(l)~~ Employees or agents of an agency of another
23 state that has comparable jurisdiction to the agencies
24 ~~jurisdiction described in paragraph (a).~~

25 ~~(m)—The Public Employees Relations Commission for the~~
26 ~~sole purpose of obtaining evidence for appeals filed~~
27 ~~pursuant to s.447.207.—Records may be released only after~~
28 ~~deletion of all information which specifically identified~~
29 ~~persons other than the employee.~~

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1 ~~(n) Employees or agents of the Department of Revenue~~
2 ~~responsible for child support enforcement activities.~~

3 (j) (c) Any person in the event of the death of a
4 child determined to be a result of abuse, abandonment, or
5 neglect. Information identifying the person reporting
6 abuse, abandonment, or neglect shall not be released. Any
7 information otherwise made confidential or exempt by law
8 shall not be released pursuant to this paragraph.

9 (k) (p) The principal of a public school, private
10 school, or charter school where the child is a student.
11 Information contained in the records which the principal
12 determines are necessary for a school employee to
13 effectively provide a student with educational services may
14 be released to that employee.

15 (l) (q) Staff of the children's advocacy center that
16 is established and operated under s.39.3035.

17 (9) Notwithstanding any other provision of law, the
18 secretary may release any record reasonably related to a
19 case that is already in the public domain but shall redact
20 the identify of the child unless the child's name is also in
21 the public domain in the context of the case or is already
22 reasonably identifiable from information in the public
23 domain.

24 Section 2 Subsections (1) and (3) of Section 415.107,
25 Florida Statutes, are amended; subsections (2) and (4) of
26 Section 415.107, Florida Statutes, are deleted and
27 subsequent subsections renumbered; and a new subsection (8)
28 of Section 415.107, Florida Statutes, is created to read:

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1 415.107 Confidentiality of reports and records in
2 cases of abuse, neglect or exploitation of vulnerable
3 adults.

4 (1) All personal identifying information contained in
5 records concerning reports of abuse, neglect, or
6 exploitation of a vulnerable adult regarding the following
7 individuals is confidential and exempt from Section
8 119.07(1):

9 (a) information which identified the adult victim;

10 (b) information which identifies the victim's guardian
11 or legal counsel unless any of the listed individuals are
12 arrested as a result of the report of abuse, neglect, or
13 exploitation of a vulnerable adult or any of the listed
14 individuals are the subject of an injunction issued by a
15 court;

16 (c) information which identifies the reporter of the
17 alleged abuse, neglect or exploitation of a vulnerable
18 adult.

19 ~~(1) In order to protect the rights of the individual~~
20 ~~or other persons responsible for the welfare of a vulnerable~~
21 ~~adult, all records concerning reports of abuse, neglect or~~
22 ~~exploitation of the vulnerable adult, including reports made~~
23 ~~to the central abuse hotline, and all records generated as a~~
24 ~~result of such reports shall be confidential and exempt from~~
25 ~~s.119.07(1) and may be not disclosed except as specifically~~
26 ~~authorized by ss.415.101-415.113.~~

27 ~~(2) Upon the request of the committee chairperson,~~
28 ~~access to all records shall be granted to staff of the~~
29 ~~legislative committees with jurisdiction over issues and~~

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1 ~~services related to vulnerable adults, or over the~~
2 ~~department. All confidentiality provisions that apply to~~
3 ~~the Department of Children and Family Services continue to~~
4 ~~apply to the records made available to legislative staff~~
5 ~~under this subsection.~~

6 (2) ~~(3)~~ Access to all records, excluding the name of
7 the reporter which shall be released only as provided in
8 subsection (6), shall be granted only to the following
9 persons, officials, and agencies:

10 (a) Employees, authorized agents, and contract
11 providers of the department or any agency which provides
12 services to vulnerable adults and any federal, state, and
13 local government entities that need the information to carry
14 out their legal responsibilities to protect vulnerable
15 adults from abuse, neglect or exploitation.

16 ~~(a) Employees or agents of the department, the Agency~~
17 ~~for Persons with Disabilities, the Agency for Health Care~~
18 ~~Administration, or the Department of Elderly Affairs who are~~
19 ~~responsible for carrying out services for protective~~
20 ~~investigations, ongoing protective services, or licensure or~~
21 ~~approval of nursing homes, assisted living facilities, adult~~
22 ~~day care centers, adult family care homes, home care for the~~
23 ~~elderly, hospices, residential licensed under chapter 393,~~
24 ~~or other facilities used for the placement of vulnerable~~
25 ~~adults.~~

26 (b) ~~A criminal justice agency investigating a report~~
27 ~~of known or suspected abuse, neglect, or exploitation of a~~
28 ~~vulnerable adult.~~

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1 ~~----- (c) The state attorney of the judicial circuit in~~
2 ~~which the vulnerable adult resides or in which the alleged~~
3 ~~abuse, neglect, or exploitation occurred.~~

4 (b) ~~(d)~~ Any victim, the victim's guardian, caregiver,
5 or legal counsel, and any person who the department has
6 determined might be abusing, neglecting, or exploiting the
7 victim.

8 (c) ~~(e)~~ A court, by subpoena, upon its finding that
9 access to such records may be necessary for the
10 determination of an issue before the court; however, such
11 access must be limited to inspection in camera, unless the
12 court determines that public disclosure of the information
13 contained in such records is necessary for the resolution of
14 an issue then pending before it.

15 (d) ~~(f)~~ A grand jury, by subpoena, upon its
16 determination that access to such records is necessary in
17 the conduct of its official business.

18 (e) ~~(g)~~ Any appropriate official of the Florida
19 advocacy council or long-term care ombudsman council
20 investigating a report of known or suspected abuse, neglect,
21 or exploitation of a vulnerable adult.

22 ~~(h) Any appropriate official of the department, the~~
23 ~~Agency for Persons with Disabilities, the Agency for Health-~~
24 ~~Care Administration, or the Department of Elderly Affairs~~
25 ~~who is responsible for:~~

26 1. ~~Administration or supervision of the programs for~~
27 ~~the prevention, investigation, or treatment of abuse,~~
28 ~~neglect, or exploitation of vulnerable adults when carrying~~
29 ~~out an official function, or~~

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1 ~~2. Taking appropriate administrative action~~
2 ~~concerning an employee alleged to have perpetrated abuse,~~
3 ~~neglect, or exploitation of a vulnerable adult in an~~
4 ~~institution.~~

5 (f) ~~(i)~~ Any person engaged in bona fide research or
6 auditing. However, information identifying the subjects of
7 the report must not be made available to the researcher.

8 (g) ~~(j)~~ Employees or agents of an agency of another
9 state that has jurisdiction comparable to the jurisdiction
10 described in paragraph (a).

11 (h) ~~(k)~~ The Public Employees Relations Commission for
12 the sole purpose of obtaining evidence for appeals filed
13 pursuant to S.447.207. Records may be released only after
14 deletion of all information that specifically identified
15 persons other than the employee.

16 (i) ~~(l)~~ Any person in the event of the death of a
17 vulnerable adult determined to be a result of abuse,
18 neglect, or exploitation. Information identifying the
19 person reporting abuse, neglect, or exploitation shall not
20 be released. Any information otherwise made confidential or
21 exempt by law shall not be released pursuant to this
22 paragraph.

23 ~~(4) The Department of Health, the Department of~~
24 ~~Business and Professional Regulation, and the Agency for~~
25 ~~Health Care Administration may have access to a report,~~
26 ~~excluding the name of the reporter, when considering~~
27 ~~disciplinary action against a licensee or certified nursing~~
28 ~~assistant pursuant to allegations of abuse, neglect, or~~
29 ~~exploitation.~~

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1 ~~(4)~~ (5) The department may release to any
2 professional person such information as is necessary for the
3 diagnosis and treatment of, and service delivery to, a
4 vulnerable adult or the person perpetrating the abuse,
5 neglect, or exploitation.

6 ~~(5)~~ (6) The identity of any person reporting abuse,
7 neglect, or exploitation of a vulnerable adult may not be
8 released, without that person's written consent, to any
9 person other than employees of the department responsible
10 for protective services, the central abuse hotline, or the
11 appropriate state attorney or law enforcement agency. This
12 subsection grants protection only for the person who
13 reported the abuse, neglect, or exploitation and protects
14 only the fact that the person is the reporter. This
15 subsection does not prohibit the subpoena of a person
16 reporting the abuse, neglect, or exploitation when deemed
17 necessary by the state attorney or the department to protect
18 a vulnerable adult who is the subject of a report, if the
19 fact that the person made the report is not disclosed.

20 ~~(6)~~ (7) for the purposes of this section, the term
21 "access" means a visual inspection or copy of the hardcopy
22 record maintained by the department ~~in the district~~.

23 ~~(7)~~ (8) Information in the central abuse hotline may
24 not be used for employment screening.

25 (8) Notwithstanding any other provision of law, the
26 secretary may release any record reasonably related to a
27 case that is already in the public domain but shall redact
28 the identity of the victim unless the victim's name is also
29 in the public domain in the context of the case or is

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1 ~~already reasonably identifiable from information in the~~
2 public domain.
3

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